M-Law-233
500

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

A COLLECTION
OF THE
FEDERAL ACTS AND ORDINANCES
FOR THE YEAR
1976

PRINTED BY THE MANAGER, PRINTING CORPORATION OF PAKISTAN PRESS, ISLAMABAD
PUBLISHED BY THE MANAGER OF PUBLICATIONS, GOVERNMENT OF PAKISTAN, KARACHI.

(1977)

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ERRATA

[*to the Table of Contents containing Federal Acts and Ordinances for the year,* 1976.]

Page (i) : In the heading, *for* " 1796 " *read* " 1976 ".

: Against item VIII, *for* " 1976 " *read* " 1975 ".

Page (ii) : Against item XXXIV, *for* " rovisions " *read* " Provisions ".

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PART I

Acts, Ordinances, President's Orders and Regulations

NATIONAL ASSEMBLY SECRETARIAT

Islamabad, the 8th January, 1976

The following Acts of Parliament received the assent of the President on the 3rd January, 1976, and are hereby published for general information :—

ACT No. I OF 1976

An Act further to amend the Pakistan International Airlines Corporation Act, 1956

WHEREAS it is expedient further to amend the Pakistan International Airlines Corporation Act, 1956 (XIX of 1956), for the purposes hereinafter appearing ;

It is hereby enacted as follows :—

1. **Short title and commencement.**—(1) This Act may be called the Pakistan International Airlines Corporation (Amendment) Act, 1975.

(2) It shall come into force at once.

2. **Amendment of section 2, Act XIX of 1956.**—In the Pakistan International Airlines Corporation Act, 1956 (XIX of 1956), hereinafter referred to as the said Act, in section 2, after clause (a), the following new clause shall be inserted, namely :—

" (aa) 'Chairman' means the Chairman of the Board ; ".

3. **Substitution of section 6, Act XIX of 1956.**—In the said Act, for section 6 the following shall be substituted, namely :—

" 6. *Board of Directors.*—(1) The Board of Directors shall consist of the following ten Directors, namely :—

(a) The Chairman ;

(b) seven Directors to be nominated by the Federal Government ; and

Price : Ps. 19

[571 Ex. Gaz.]

(c) two Directors to be elected by the shareholders other than the Federal Government.

(2) Every Director, other than the Chairman, shall—

(a) perform such special duties as the Board may, by regulations, assign to him ; and

(b) receive such remuneration, fees or allowances, and enjoy such privileges, as the Federal Government may determine ".

4. **Amendment of section 7, Act XIX of 1956.**—In the said Act, in section 7, in sub-section (1), the words " other than the Managing Director " shall be omitted.

5. **Substitution of section 8, Act XIX of 1956.**—In the said Act, for section 8 the following shall be substituted, namely :—

" 8. *Chairman.*—(1) The Federal Government shall appoint a Chairman of the Board, who shall be the chief executive of the Corporation.

(2) The Chairman shall, unless removed earlier, hold office for a period of three years on such terms and conditions as the Federal Government may determine ; and shall, subject as aforesaid, be eligible for re-appointment.

(3) The Chairman shall exercise such powers and perform such functions as may be assigned to him by the Board or as the Federal Government may, from time to time, determine.

(4) The Chairman shall receive such remuneration, fees or allowances, and enjoy such privileges, as the Federal Government may determine.

8A. *Managing Director.*—(1) There shall be a Managing Director of the Corporation, who shall be appointed by the Federal Government after consultation with the Chairman.

(2) The Managing Director shall hold office for such period, and be subject to such terms and conditions of service, as the Federal Government may determine after consultation with the Chairman.

(3) The Managing Director shall exercise such powers and perform such functions as may be prescribed by the Board and as the Chairman may assign to him from time to time.".

6. **Amendment of section 9, Act XIX of 1956.**—In the said Act, in section 9, in sub-section (2), for the words " Managing Director " the word " Chairman " shall be substituted.

7. **Repeal.**—The Pakistan International Airlines Corporation (Amendment) Ordinance, 1975 (XIII of 1975), is hereby repealed.

ACT NO. II OF 1976

An Act further to amend the Industrial Relations Ordinance, 1969

WHEREAS it is expedient further to amend the Industrial Relations Ordinance, 1969 (XXIII of 1969), for the purpose hereinafter appearing ;

It is hereby enacted as follows :—

1. **Short title, extent and commencement.**—(1) This Act may be called the Industrial Relations (Amendment) Act, 1975.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. **Amendment of section 1, Ordinance XXIII of 1969.**—In the Industrial Relations Ordinance, 1969 (XXIII of 1969), in section 1, in sub-section (3), after the word " Departments " at the end, the words " or to any person employed as a member of the security staff of the Pakistan International Air Lines Corporation " shall be inserted.

3. **Repeal.**—The Industrial Relations (Amendment) Ordinance, 1975 (XIX of 1975), is hereby repealed.

ACT NO. III OF 1976

An Act to amend the Suppression of Terrorist Activities (Special Courts) Act, 1975

WHEREAS it is expedient to amend the Suppression of Terrorist Activities (Special Courts) Act, 1975 (XV of 1975), for the purposes hereinafter appearing ;

It is hereby enacted as follows :—

1. **Short title and commencement.**—(1) This Act may be called the Suppression of Terrorist Activities (Special Courts) (Amendment) Act, 1975.

(2) It shall come into force at once.

2. **Amendment of section 6, Act XV of 1975.**—In the Suppression of Terrorist Activities (Special Courts) Act, 1975 (XV of 1975), hereinafter referred to as the said Act, section 6 shall be re-numbered as sub-section (1) of that section and after sub-section (1) re-numbered as aforesaid, the following new sub-section shall be added, namely :—

" (2) A Special Court shall have the same power as the High Court has to punish any person who—

(a) abuses, interferes with or obstructs the process of the Court in any way or disobeys any order of the Court ;

(b) scandalises the Court or otherwise does anything which tends to bring the Court or the person constituting the Court in relation to his office into hatred, ridicule or contempt ;

(c) does anything which tends to prejudice the determination of a matter pending before the Court ; or

(d) does any other thing which, by any other law, constitutes contempt of court:

Provided that fair comment made in good faith and in the public interest on the working of the Court or any of its final decision after the expiry of the period of limitation for appeal shall not constitute contempt of court.".

3. **Amendment of section 7, Act XV of 1975.**—In the said Act, in section 7,—

(a) in sub-section (1), after the word and comma "passed," the words and comma "and the Provincial Government may direct any person appointed by it for the purpose to present an appeal to the High Court from an order of acquittal passed by a Special Court," shall be inserted; and

(b) in sub-section (2), after the word "sentence", the words and commas "or order of acquittal, as the case may be," shall be inserted.

4. **Repeal.**—The Suppression of Terrorist Activities (Special Courts) (Amendment) Ordinance, 1975 (XVII of 1975), is hereby repealed.

ACT NO. IV OF 1976

An Act further to amend the Divorce Act

WHEREAS it is expedient further to amend the Divorce Act (IV of 1869), for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. **Short title and commencement.**—(1) This Act may be called the Divorce (Amendment) Act, 1975.

(2) It shall come into force at once.

2. **Amendment of section 3, Act IV of 1869.**—In the Divorce Act (IV of 1869), hereinafter referred to as the said Act, in section 3,—

(a) for clauses (1), (2), (3) and (4) the following shall be substituted, namely:—

"'Civil Judge'	.. (1) "Civil Judge" means a Civil Judge appointed under the West Pakistan Civil Courts Ordinance, 1962 (W.P. Ordinance No. II of 1962);
'Court of Civil Judge'	.. (2) "Court of Civil Judge" means, in the case of any petition under this Act, the Court of the Civil Judge within the local limits of whose ordinary jurisdiction the husband and wife reside or last resided together;

'Court' .. (3) "Court" means the High Court, the District Court or the Court of Civil Judge, as the case may be ; and

(b) in clause (5), for the word "Native", occurring twice, the word "Pakistani" shall be substituted.".

3. **Omission of section 4, Act IV of 1869.**—In the said Act, section 4 shall be omitted.

4. **Omission of sections 5 and 6, Act IV of 1869.**—In the said Act, sections 5 and 6 shall be omitted.

5. **Amendment of section 7, Act IV of 1869.**—In the said Act, in section 7,—

(a) for the words "High Courts and District Courts" the word "Court" shall be substituted ; and

(b) for the words "said Courts" the word "Court" shall be substituted.

6. **Omission of section 8, Act IV of 1869.**—In the said Act, section 8 shall be omitted.

7. **Omission of section 9, Act IV of 1869.**—In the said Act, section 9 shall be omitted.

8. **Amendment of section 10, Act IV of 1869.**—In the said Act, in section 10, for the words "District Court or to the High Court", occurring twice, the words "Court of Civil Judge" shall be substituted.

9. **Amendment of section 13, Act IV of 1869.**—In the said Act, in section 13, the last clause beginning with the words "When a petition" and ending in the words "High Court" shall be omitted.

10. **Amendment of section 14, Act IV of 1869.**—In the said Act, in section 14, in the fourth clause, the words and figures "in the manner and subject to all the provisions and limitations in sections 16 and 17 made and declared" shall be omitted.

11. **Omission of sections 16, 17 and 17A, Act IV of 1869.**—In the said Act, sections 16, 17 and 17A shall be omitted.

12. **Amendment of section 18, Act IV of 1869.**—In the said Act, in section 18, for the words "District Court or to the High Court" the words "Court of Civil Judge" shall be substituted.

13. **Amendment of section 19, Act IV of 1869.**—In the said Act, in section 19, for the words "High Court" the word "Court" shall be substituted.

14. **Omission of section 20, Act IV of 1869.**—In the said Act, section 20 shall be omitted.

15. **Amendment of sections 23, 27, 32 and 34, Act IV of 1869.**—In the said Act, in sections 23, 27, 32 and 34, for the words "District Court or the High Court", wherever occurring, the words "Court of Civil Judge" shall be substituted.

16. **Amendment of section 35, Act IV of 1869.**—In the said Act, in section 35, the last clause beginning with the words "Whenever any application" and ending in the words "occasioned by the application" shall be omitted.

17. **Amendment of section 37, Act IV of 1869.**—In the said Act, in section 37,—

(a) the first two clauses shall be omitted; and

(b) in the third clause, for the word "order" the following shall be substituted, namely:—

> "The Court may, if it thinks, fit, on any decree declaring a marriage to be dissolved, or on any decree of judicial separation obtained by the wife, order".

18. **Amendment of section 40, Act IV of 1869.**—In the said Act, in section 40,—

(a) the first two clauses shall be omitted; and

(b) in the third clause, for the word "may" the following shall be substituted, namely:—

> "The Court, after making a decree for dissolution of marriage or a decree of nullity of marriage, may".

19. **Substitution of section 43, Act IV of 1869.**—In the said Act, for section 43 the following shall be substituted, namely:—

> "43. *Power to make orders as to custody of children in suits for dissolution or nullity.*—In any suit for obtaining a dissolution of marriage or a decree of nullity of marriage, the Court may from time to time, before making its decree, make such interim orders, and may make such provision in the decree, as it deems proper with respect to the custody, maintenance and education of the minor children, the marriage of whose parents is the subject of the suit; and may, if it thinks fit, direct proceedings to be taken for placing such children under the protection of the Court.".

20. **Substitution of section 44, Act IV of 1869.**—In the said Act, for section 44 the following shall be substituted, namely:—

> "44. *Power to make such orders after decree.*—The Court, after a decree for dissolution of marriage or a decree of nullity of marriage, may, upon application by petition for the purpose, make from time to time all such orders and provision, with respect to the custody, maintenance and education of the minor children, the marriage of whose parents was the subject of the decree, or for placing such children under the protection of the Court, as might have been made by such decree or by such interim orders as aforesaid.".

21. **Amendment of section 55, Act IV of 1869.**—In the said Act, in section 55,—

(a) the first proviso shall be omitted; and

(b) in the second proviso, the word "also" shall be omitted.

22. **Omission of section 56, Act IV of 1869.**—In the said Act, section 56 shall be omitted.

23. **Substitution of section 57, Act IV of 1869.**—In the said Act, for section 57 the following shall be substituted, namely :—

> "57. *Liberty to parties to marry again.*—After the expiry of six months from the date of a decree for the dissolution of a marriage, or, where an appeal has been presented against any such decree, after the dismissal of such appeal or the declaration of the marriage as dissolved as a result of such appeal, but not sooner, it shall be lawful for the parties to the marriage to marry again as if the prior marriage had been dissolved by death.".

24. **Amendment of Schedule of Forms, Act IV of 1869.**—In the said Act, in the Schedule of Forms, the brackets and word "(High)", the words and brackets "To the Hon'ble Mr. Justice [*or* To the Judge of]" and the brackets and word "(Hon'ble)", wherever occurring, shall be omitted.

25. **Saving.**—All suits, appeals and proceedings in causes and matters matrimonial pending in any High Court or District Court in which recording of evidence has commenced immediately before the commencement of this Act shall be dealt with and decided by such Court, so far as may be, as if this Act had not come into force.

M. A. HAQ,
Secretary.

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 8th January, 1976

No. F. 24 (1)|76-Pub.—The following Ordinance made by the President on the 6th January, 1976, is hereby published for general information :—

ORDINANCE No. 1 OF 1976

AN

ORDINANCE

to declare the holders of the office of Adviser to the Governor not to be disqualified from being elected or chosen as, and from being, a member of Parliament or a Provincial Assembly ;

WHEREAS paragraph (d) of clause (1) of Article 63 read with Article 127 of the Constitution provides that a person holding any office of profit in the service of Pakistan may be declared by law not to be disqualified from being elected or chosen as, and from being, a member of Parliament or a Provincial Assembly ;

AND, WHEREAS, it is expedient in the public interest to declare that persons holding the office of Adviser to a Governor during certain period shall not be disqualified from being elected or chosen as, and from being, a member of Parliament or a Provincial Assembly ;

AND, WHEREAS, the National Assembly is not in session and the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the Members of Parliament and Provincial Assemblies (Exemption of Advisers from Disqualification) Ordinance, 1976.

(2) It shall come into force at once and shall be deemed to have taken effect on the thirty-first day of December, 1975.

2. **Adviser to Governor not to be disqualified.**—It is hereby declared that any person holding the office of Adviser to the Governor of a Province during the period—

(a) that an Order under paragraph (c) of clause (2) of Article 232 of the Constitution is in force whereby the Federal Government has assumed to itself, or directed the Governor of a Province to assume on its behalf, all or any of the functions of the Government of that Province ; or

(b) a Proclamation under Article 234 of the Constitution is in force ;

shall not be disqualified from being elected or chosen as, and from being, a member of Parliament or a Provincial Assembly.

FAZAL ELAHI CHAUDHRY,
President.

Countersigned.

ZULFIKAR ALI BHUTTO,
Prime Minister.

ZIAUL HAQ CHANA,
Secretary.

CORRIGENDA

[*To the* Gazette of Pakistan, Extraordinary, *Part I, dated the 29th December, 1975, containing Ordinance Nos. XXIX, XXX and XXXI of 1975.*]

Page 663 : In line 2, from the bottom, *for* " end " *read* " end, ".

Page 664 : In the second line, *for* " commas, " *read* " comma, ".

Page 664 : In line 5, *for* " 498 amended as aforesaid, " *read* " 498, ".

Page 665 : In the second line, *for* " (Act of 1908), " *read* " (Act V of 1908),".

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PART I

Acts, Ordinances, President's Orders and Regulations

NATIONAL ASSEMBLY OF PAKISTAN

Islamabad, the 14th January, 1976

The following Acts of Parliament received the assent of the President on the 10th January, 1976, and are hereby published for general information :—

ACT No. V OF 1976

An Act to make provision for the regulation of the engineering profession

WHEREAS it is expedient to make provision for regulation of the engineering profession and for that purpose to constitute an Engineering Council ;

It is hereby enacted as follows :—

1. **Short title, extent and commencement.**—(1) This Act may be called the Pakistan Engineering Council Act, 1975.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. **Definitions.**—In this Act, unless there is anything repugnant in the subject or the context,—

(a) " bye-laws " means bye-laws made under this Act ;

(b) " Chairman " means Chairman of the Council ;

(c) " consulting engineer " means an engineer or body of engineers registered as such ;

(d) " Council " means the Pakistan Engineering Council constituted under section 3 ;

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(e) " engineering institution " means an institution within or without Pakistan which grants degrees in engineering and is recognised as such by the Council ;

(f) " engineering public organisation " means a Department of the Federal Government or a Provincial Government, a public Corporation, autonomous or semi-autonomous body, cantonment board, municipality, improvement trust or other local authority ;

(g) " Executive Committee " means the Executive Committee of the Council ;

(h) " member " means a member of the Council and includes the Chairman and Vice-Chairman ;

(i) " prescribed " means prescribed by bye-laws ;

(j) " professional engineer " means a person who holds a recognised engineering qualification and is registered as a professional engineer ;

(k) " professional engineering work " means the giving of professional advice and opinions, the making of measurements and layouts, the preparation of reports, computations, designs, drawings, plans and specifications and the construction, inspection and supervision of engineering works, in respect of—

  (i) railways, aerodromes, bridges, tunnels and metalled roads ;

  (ii) dams, canals, harbours, light houses ;

  (iii) works of an electrical, mechanical, hydraulic, communication aeronautical power engineering, geological or mining character ;

  (iv) waterworks, sewers, filtration, purification and incinerator works ;

  (v) residential and non-residential buildings, including foundations, framework and electrical and mechanical systems thereof ;

  (vi) structures accessory to engineering works and intended to house them ; and

  (vii) any other work which the Council may, by notification in the official Gazette, declare to be an engineering work for the purposes of this clause ;

(l) " recognised engineering qualification " means any of the qualifications included in the First Schedule or the Second Schedule ;

(m) " Register " means the Register maintained under section 16 ;

(n) " registered " means registered under this Act ;

(o) " Registrar " means the Registrar of the Council ; and

(p) " University " means a University established by law in Pakistan and having an engineering faculty.

3. **Constitution and incorporation of Engineering Council.**—(1) There shall be constituted in accordance with the provisions of this Act an Engineering Council to be known as the Pakistan Engineering Council.

(2) The Council constituted under sub-section (1) shall be a body corporate having perpetual succession and a common seal, with power to acquire and hold property, both movable and immovable, and to contract, and shall by the name by which it is known sue and be sued.

(3) The Council shall be composed of all persons whose names may hereafter be entered in the Register, so long as they continue to have their names borne on the Register.

(4) Notwithstanding anything contained in sub-section (3), the Council shall, upon its first constitution, be composed of—

(a) a Chairman, being an engineer with not less than twenty years' standing, to be nominated by the Federal Government ;

(b) ten members, being engineers, of whom two each shall be nominated by the Federal Government and a Provincial Government ; and

(c) one member, being an engineer, to be nominated by each University.

(5) The headquarters of the Council shall be at Islamabad or at such other place as the Federal Government may appoint.

4. **Chairman and Vice-Chairman.**—(1) There shall be a Chairman and a Vice-Chairman of the Council to be elected by the Members from amongst themselves in the prescribed manner.

(2) Notwithstanding anything contained in sub-section (1), for a period of one year from the commencement of this Act, the Chairman shall be the person nominated by the Federal Government under clause (a) of sub-section (4) of section 3.

(3) The Chairman and Vice-Chairman shall, subject to sub-section (2), hold office for a term of two years.

(4) No person shall be qualified to be elected as, or to be, Chairman or Vice-Chairman for more than two consecutive terms.

5. **Annual general meeting of the Council.**—(1) An annual general meeting of the Council shall be held at the headquarters of the Council at such time as may be appointed by the Executive Committee.

(2) The following business may be transacted at the annual general meeting, namely :—

(a) presentation of annual report ;

(b) presentation of audited accounts ;

(c) presentation of annual budget ;

(d) appointment of auditors ; and

(e) such other business as may be placed before the meeting by the Executive Committee or as the meeting may decide.

6. **Extraordinary general meeting of the Council.**—(1) An extraordinary general meeting of the Council shall be called by the Chairman at the headquarters of the Council—

- (a) within fourteen days of the receipt by him of a requisition signed by not less than one hundred members and stating the business proposed to be transacted at the meeting ; or
- (b) at any time, if the holding of such meeting for the consideration of any urgent matter is in his opinion necessary.

(2) At a meeting called in pursuance of clause (a) of sub-section (1), no business other than the business stated in the requisition referred to in that clause shall be transacted.

7. **General provisions relating to meetings of Council.**—(1) An annual or extraordinary general meeting of the Council shall be held and conducted in accordance with the bye-laws.

(2) To constitute a quorum at an annual or extraordinary general meeting of the Council, the presence of not less than one hundred members shall be necessary :

Provided that, in respect of the Council as constituted under sub-section (4) of section 3, this sub-section shall have effect as if, for the words " one hundred " therein the word " six " were substituted.

(3) All decisions of the Council at an annual or extraordinary general meeting shall be taken by majority of the members present and voting.

8. **Functions of the Council.**—The following shall be the functions of the Council, namely :—

- (a) maintenance of a Register of persons qualified to practise as professional engineers and consulting engineers ;
- (b) recognition of engineering qualifications for the purpose of registration of professional engineers and consulting engineers ;
- (c) removal of names from the Register and restoration to the Register of names which have been removed ;
- (d) laying down of standards of conduct for the members ;
- (e) safeguarding the interests of the members ;
- (f) promotion of reforms in the engineering profession ;
- (g) management of the funds and properties of the Council ;
- (h) promotion of engineering education and review of courses of studies in consultation with the Universities ;
- (i) levy and collection of fees from applicants for registration or temporary licences and members ;
- (j) exercise of such disciplinary powers over the members and servants of the Council as may be prescribed ;
- (k) formation of such committees as may be prescribed ; and
- (l) performance of all other functions connected with, or ancillary or incidental to, the aforesaid functions.

9. **Executive Committee.**—(1) There shall be an Executive Committee of the Council for the management of the affairs of the Council and for performing the functions assigned to the Council by or under this Act.

(2) The Executive Committee shall be composed of the following persons, namely :—

(a) the Chairman and Vice-Chairman of the Council who shall also be the Chairman and Vice-Chairman respectively of the Executive Committee ;

(b) the Registrar ;

(c) five members, being professional engineers, of whom one each shall be nominated by the Federal Government and a Provincial Government ;

(d) one member, being a professional engineer, to be nominated by each University ;

(e) one member, being a professional engineer, to be nominated by the Institute of Engineers, Pakistan ; and

(f) one member, being a professional engineer of not less than ten years' standing, for every two hundred professional engineers, or a part thereof, whose names are borne on the Register on the thirtieth June of the year in which election to the Executive Committee is held, to be elected by the professional engineers in the prescribed manner.

(3) Notwithstanding anything contained in sub-section (2), for a period of one year from the commencement of this Act, the Executive Committee shall be composed of the persons nominated by the Federal Government under sub-section (4) of section 3.

(4) The members of the Executive Committee, other than the Registrar, shall, subject to sub-section (3), hold office for a term of two years.

(5) No person shall be qualified to be elected as, or to be, a member of the Executive Committee for more than two consecutive terms.

(6) The election of members of the Executive Committee under clause (f) of sub-section (2) shall be held so as to conclude not less than fifteen days before the term of the outgoing members is due to expire.

10. **Recognition of engineering qualifications granted by institutions in Pakistan.**—(1) The engineering qualifications granted by engineering institutions in Pakistan which are included in the First Schedule shall be the recognised engineering qualifications for the purposes of this Act.

(2) Any engineering institution in Pakistan which grants an engineering qualification not included in the First Schedule may apply to the Council to have such qualification recognised, and the Council may, by notification in the official Gazette, amend the First Schedule so as to include such qualification therein.

11. **Recognition of foreign engineering qualifications.**—(1) The engineering qualifications granted by engineering institutions outside Pakistan which are included in the Second Schedule shall be recognised engineering qualifications for the purposes of this Act.

(2) Any engineering qualification granted by an engineering institution outside Pakistan not included in the Second Schedule may be recognised by the Council, and the Council may, by notification in the official Gazette, amend the Second Schedule so as to include such qualification therein.

12. **Grant of temporary licences.**—(1) The Executive Committee may grant to any person domiciled outside Pakistan who does not hold any recognised engineering qualification but who holds a diploma in engineering, a degree in applied sciences or an equivalent diploma from an institution recognised by the Council, or who is a corporate member of an engineering body, society, institute or association recognised by the Council, a temporary licence for a specific project to work as an associate of a professional engineer who shall sign and seal the plans and specifications for the project.

(2) The Executive Committee may, if it feels that such action is warranted by special circumstances, grant to a person referred to in sub-section (1) a temporary licence to work as the engineer in charge of a specific project for so long as he is assisted by a professional engineer.

(3) The Executive Committee may, for works to be carried out at the discretion of an engineering public organisation, grant a temporary licence to any person on the recommendation of such organisation.

(4) Any person to whom a temoprary licence has been granted shall, during the period for which the licence is valid, be subject to the provisions of this Act and the bye-laws.

13. **Power to require information as to courses of study and examination.**—Every engineering institution in Pakistan which grants a recognised engineering qualification shall furnish such information as the Council may, from time to time, require as to the courses of study and examination to be undergone in order to obtain such qualification.

14. **Inspection of examinations.**—(1) The Council shall appoint such number of inspectors as it may deem requisite to attend at any or all of the examinations held by the engineering institutions in Pakistan for the purpose of granting engineering qualifications which are recognised engineering qualifications or in respect of which recognition has been sought.

(2) Inspectors appointed under sub-section (1) shall not interfere with the conduct of any examination but they shall report to the Council on the sufficiency of the examination which they attend and on the courses of study and facilities for teaching provided by the institution in question at different stages in respect of such examination, and on any other matter in regard to which the Council may require them to report.

15. **Withdrawal of recognition.**—(1) When upon report by an inspector, it appears to the Council that the courses of study and examination to be gone through in any engineering institution in Pakistan in order to obtain a recognised engineering qualification or the standards of proficiency required from candidates in any examination held for the purpose of granting such qualification are not such as to secure to persons holding such qualification the knowledge and skill requisite for the efficient practice of engineering, the Council shall forward the report to the engineering institution concerned with an intimation of the period within which it may submit its explanation to the Council.

(2) On receipt of the explanation or, where no explanation is submitted within the specified period, on the expiry of that period, the Council, after making such further inquiry, if any, as it may think fit, may, by notification in the official Gazette, direct that an entry shall be made in the First Schedule against the engineering qualification to which the explanation relates declaring that it shall be a recognised engineering qualification only when granted before a specified date.

16. **Maintenance of Register, etc.**—(1) The Council shall maintain in the prescribed manner a Register in which shall be entered the names and other particulars of persons possessing recognised engineering qualifications whose applications for registration as professional engineers and consulting engineers are from time to time granted by the Council.

(2) Every application for registration under this Act shall be made to the Council in the prescribed form and be accompanied by the prescribed fee.

(3) Every professional engineer and consulting engineer registered under this Act shall be entitled to receive a certificate of registration under the hand of the Registrar.

(4) A certificate of registration issued under sub-section (3), shall, subject to the provisions of this Act, remain in force until the thirty-first day of December of the year in which it is issued and shall thereafter be renewable annually upon payment of the prescribed fee.

17. **Registration and removal of names from Register.**—(1) Every application for registration, and every case of removal of a name from the Register, shall be considered by an enrolment committee consisting of the Chairman and Vice-Chairman and three other members, being engineers of not less than ten years' standing, nominated by the Executive Committee.

(2) The enrolment committee in its discretion may refuse to permit the registration of any person or direct the removal altogether or for a specified period from the Register of the name of any registered professional engineer or consulting engineer who or which has been convicted of any such offence as implies in the opinion of the committee a defect of character or who or which, after an inquiry at which opportunity has been given to such person to be heard in person or through an advocate, has been held by the committee as guilty of infamous conduct in any professional respect or who or which has shown himself or itself to be unfit to continue in practice on any ground including, in the case of a professional engineer, mental ill-health.

(3) The enrolment committee may direct that any name removed from the Register under sub-section (2) shall be restored.

(4) For the purpose of an inquiry under sub-section (2), the enrolment committee shall be deemed to be a court within the meaning of the Evidence Act, 1872 (I of 1872), and shall exercise all the powers of a commissioner appointed under the Public Servants (Inquiries) Act, 1850 (XXXVII of 1850).

18. **Appeal against removal of name from Register.**—(1) Any professional engineer or consulting engineer aggrieved by an order under sub-section (1) of

section 17 for the removal of his its name from the Register may, within thirty days of the communication of the order, prefer an appeal to the Executive Committee.

(2) Upon the receipt of an appeal under sub-section (1), the Executive Committee may, after holding such inquiry as it may consider necessary and giving the appellant an opportunity of being heard in person or through an advocate, pass such order as it may deem fit.

19. **Revision of Register.**—(1) The Registrar shall remove from the Register the name of any professional engineer or consulting engineer—

(a) who has died or, as the case may be, which has ceased to exist;

(b) who or which has failed to have his or its certificate of registration renewed within one year of the date of its expiry; or

(c) whose name has been directed under sub-section (2) of section 17 or sub-section (7) of section 22 to be removed from the Register.

(2) The Registrar shall restore to the Register the name of any professional engineer or consulting engineering whose name has been removed from the Register under clause (b) of sub-section (1) if such professional engineer or consulting engineer applies for such restoration and pays the prescribed fee.

(3) The Council may, in its discretion, after the expiry of not less than one year following the removal from the Register of the name of any professional engineer or consulting engineer grant registration to such professional engineer or consulting engineer if he or it applies for registration.

20. **Complaints against professional engineers, etc.**—(1) If at any time a complaint is made to the Council by any person as to the work or conduct of any professional engineer or consulting engineer, the Executive Committee may refer the matter for inquiry and report to an inquiry committee appointed by it.

(2) If, upon the receipt of such report, the Executive Committee considers that a *prima facie* case for the removal from the Register of the name of the professional engineer or consulting engineer to whom the complaint relates has been established, the Executive Committee may refer the case to a Tribunal.

21. **Tribunals of Inquiry.**—(1) For holding inquiries into the professional conduct of professional engineers and consulting engineers, the Executive Committee may constitute as many Tribunals of Inquiry as it may consider necessary.

(2) A Tribunal shall consist of three members appointed by the Executive Committee out of a panel of members of the Council maintained by the Committee who have professional standing of not less than ten years and who hold, or have held high engineering assignments.

(3) The Executive Committee shall appoint one of the members of a Tribunal to be the Chairman thereof.

22. **Procedure in inquiries, etc.**—(1) In inquiries relating to the professional conduct of professional engineers and consulting engineers, the Tribunal shall, except as hereinafter provided, follow such procedure as may be prescribed.

(2) The Tribunal shall fix a date for the hearing of the case and shall cause notice of the day so fixed to be given to the complaint and the professional engineer or consulting engineer concerned, hereafter in this section referred to as the respondent, and shall afford to the complainant and the respondent an opportunity of leading evidence, if any, and of being heard before recommendations are made in the case.

(3) The Chairman of the Tribunal may empower a member of the Tribunal to consider and decide preliminary issues and to record evidence.

(4) On completion of the inquiry, the Tribunal may recommend to the Executive Committee—

(a) dismissal of the complaint ;

(b) imposition of any of the following penalties on the respondent, namely :—

  (i) reprimand ;

  (ii) removal of name from the Register for a period not exceeding twelve months ;

  (iii) removal of name from the Register altogether ; or

(c) prosecution of the respondent for the offence constituted by his or its conduct.

(5) The Tribunal may make such recommendation to the Executive Committee as to the cost of the proceedings before it as it may deem fit ; and, where the Tribunal is of the opinion that a complaint made against a respondent is false and vexatious, it may, in addition and without prejudice to any other remedy available to the respondent, recommend imposition upon the complainant of costs not exceeding a sum of ten thousand rupees and payment to the respondent of the whole or any part of the costs recovered from the complainant.

(6) In any case in which it has recommended the imposition of any penalty on, or the prosecution of, the respondent, the Tribunal may also recommend that an amount not exceeding twice the amount of the fee received by the respondent from the complainant may be recovered from the respondent and paid to the complainant as compensation.

(7) The Executive Committee shall meet to consider the recommendations of the Tribunal within a period of six weeks from the date of receipt thereof and pass such orders as it may deem fit.

(8) Any order of the Executive Committee as to the costs of the proceedings before the Tribunal or as to the recovery of any amount from a complainant or a respondent shall be executable as if it were an order of a District Judge.

(9) When any professional engineer or consulting engineer is reprimanded under this Act a record of the punishment shall be entered against his or its name in the Register.

23. **Powers of the Tribunal.**—(1) For the purpose of any such inquiry as aforesaid, a Tribunal shall have the same powers as are vested in a court under the Code of Civil Procedure, 1908 (Act V of 1908), in respect of the following matters, namely :—

(a) enforcing the attendance of any person,

(b) compelling the production of documents, and

(c) issuing commissions for the examination of witnesses.

(2) Every such inquiry shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Pakistan Penal Code (Act XLV of 1860), and a Tribunal shall be deemed to be a civil court for the purpose of sections 480 and 482 of the Code of Criminal Procedure, 1898 (Act V of 1898).

(3) For the purposes of enforcing the attendance of any person or of compelling the production of documents or issuing commissions—

(a) the jurisdiction of a Tribunal shall extend to the whole of Pakistan ; and

(b) a Tribunal may send to any civil court having jurisdiction in the place where the Tribunal is sitting any summons or other process for the attendance of a witness or the production of documents required by the Tribunal, or any commission which it desires to issue, and the civil court shall serve such process or issue such commission, as the case may be, and may enforce any such process as if it were a process for attendance or production before itself.

(4) Proceedings before a Tribunal in any such inquiry shall be deemed to be civil proceedings for the purposes of section 132 of the Evidence Act, 1872 (I of 1872), and the provisions of that section shall apply accordingly.

24. **Fund of the Council, accounts and audit.**—(1) All sums received by the Council as fees, grants, donations or subscriptions shall form part of a fund which shall be managed, administered and utilised in such manner as may be prescribed.

(2) The Executive Committee shall cause to be maintained such books of account and other books in such form and manner as may be prescribed.

(3) The accounts of the Council shall be audited, before the thirtieth day of November each year, by an auditor appointed by the Council who is a chartered accountant within the meaning of the Chartered Accountants Ordinance, 1961 (X of 1961).

25. **Bye-laws of the Council.**—(1) The Executive Committee may, with the previous sanction of the Federal Government, by notification in the official Gazette, make bye-laws for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such bye-laws may provide for all or any of the following matters, namely :—

(a) the summoning and holding of meetings of the Council and Executive Committee, the time and places where such meetings are to be held, the conduct of business and the number of members necessary to constitute a quorum at a meeting of the Executive Committee ;

(b) the powers and duties of the Chairman, Vice-Chairman and Registrar ;

(c) the terms of office and powers and duties of the Registrar and other officers and servants of the Council ;

(d) the appointment, powers, duties and procedure of inspectors ;

(e) the procedure for maintenance and publication of the Register, the fees to be charged under this Act and establishment of sub-offices or branches of the Council ;

(f) the management of the property of the Council and the maintenance and audit of its accounts ;

(g) the procedure at any inquiry held under sub-section (2) of section 17 ; and

(h) any other matter which is to be or may be prescribed.

26. **Proof of membership, etc.**—For the purposes of any action or proceeding under this Act, a certificate of the Registrar certifying under the seal of the Council that, on a specified date, the name of a person was or was not borne on the Register shall be proof of its contents and of the authenticity of his signature, until the contrary is proved.

27. **Penalties and procedure.**—(1) After such date as the Federal Government may, after consultation with the Council, by notification in the official Gazette, appoint in this behalf, whoever undertakes any professional engineering work shall, if his name is not for the time being borne on the Register, be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to ten thousand rupees, or with both, and, in the case of a continuing offence, with a further fine which may extend to two hundred rupees for every day after the first during which the offence continues.

(2) After the date appointed as aforesaid, whoever employs for any professional engineering work any person whose name is not for the time being borne on the Register shall be punishable, on first conviction, with imprisonment for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both, and on a second or subsequent conviction, with imprisonment for a term which may extend to one year, or with fine which may extend to ten thousand rupees, or with both.

(3) Whoever wilfully procures or attempts to procure himself or itself to be registered under this Act as a professional engineer or consulting engineer by making or producing or causing to be made or produced any false or fraudulent representation or declaration, either orally or in writing, and any person who assists him therein shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(4) Whoever falsely pretends to be registered under this Act, or not being registered under this Act, uses with his name or title any words or letters representing that he is so registered, irrespective of whether any person is actually deceived by such pretence or representation or not, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(5) No person undertaking any professional engineering work shall, unless he is registered under this Act, be entitled to recover before any court or other authority any sum of money for services rendered in such work.

(6) No court shall take cognizance of any offence punishable under this Act save on complaint made by, or under the authority of, the Council.

(7) No court inferior to that of a Magistrate of the first class shall try any offence punishable under this Act.

28. **Saving.**—Nothing in this Act shall be deemed to—

(a) affect the right of any person who was, immediately before the date specified in a notification issued under sub-section (1) of section 27, entitled to practise as an architect to continue such practice, provided a professional engineering work is executed under the supervision of a professional engineer, or to prevent him from associating with a professional engineer;

(b) affect the right of any person to execute or undertake any work for which he has been trained in an institution specified by the Council, by notification in the official Gazette, for the purposes of this clause;

(c) affect the right of any person who was, immediately before the date specified in a notification issued under sub-section (1) of section 27, entitled to work as a land surveyor to continue such work; or

(d) restrict the normal practice of his art or trade by an artisan or skilled workman.

29. **Power to exempt.**—If the Council so recommends, the Federal Government may, by notification in the official Gazette, exempt any person or class of persons, or any professional engineering work or class of such works, from the operation of the provisions of section 27, subject to such conditions, if any, as may be specified in the notification.

30. **Commission of Inquiry.**—(1) Whenever it is made to appear to the Federal Government that the Council is not complying with any of the provisions of this Act, the Federal Government may refer the particulars of the complaint to a Commission of Inquiry consisting of—

(a) a person who is, or has been, or is qualified to be, a Judge of a High Court, to be appointed by the Federal Government;

(b) a professional engineer, to be nominated by the Federal Government; and

(c) a professional engineer, to be nominated by the Council.

(2) The Commission shall proceed to inquire and report to the Federal Government as to the truth of the matters charged in the complaint and, in case of any charge of default or of improper action being found by the Commission to have been established, the Commission shall recommend remedies, if any, which are in its opinion necessary.

(3) The Federal Government may require the Council to adopt the remedies so recommended within such time as, having regard to the report of the Commission, it may think fit; and, if the Council fails to comply with any such requirement, the Federal Government may amend the bye-laws or make such provision or order or take such other steps as may seem necessary to give effect to the recommendations of the Commission.

(4) A Commission of Inquiry shall have power to administer oaths, to enforce the attendance of witnesses and the production of documents, and shall have all such other necessary powers for the purpose of any inquiry conducted by it as are exercised by a civil court under the Code of Civil Procedure, 1908 (Act V of 1908).

31. **Repeal.**—The Pakistan Engineering Council Ordinance, 1975 (XV of 1975), is hereby repealed.

THE FIRST SCHEDULE

[*See* sections 2(m) and 10]

Recognised Engineering Qualifications granted by Engineering Institutions in Pakistan:—

Engineering Institution	Recognised Engineering Qualifications
1. University of Engineering and Technology, Lahore	B. Sc. Engineering.
2. University of Karachi	Bachelor of Engg.
3. Sind University	B. Sc. Engineering. B. Sc. Agricultural Engineering.
4. University of Peshawar	B. Sc. Engineering.
5. Agricultural University, Lyallpur	B. Sc. Agricultural Engineering.
6. Military College of Engineering	B. Sc. (Civil Engg.).
7. Institute of Engineers Pakistan	A. M. I. E. (Pak).

THE SECOND SCHEDULE

[*See* sections 2(m) and 11]

Recognised Engineering Qualifications grated by Engineering Institutions out side Pakistan.

Engineering Institution	Recognised Engineering Qualifications
1. Aligarh Muslim University	B. Sc. (Engg).
2. Andhara University	B. Sc. in Civil, Mechanical or Electrical Engineering from 1950.
3. Annamali University	B. E. in Civil, Mechanical, Electrical, or Chemical Engineering from April, 1949.

Engineering Institution	Recognised Engineering Qualifications
4. Banaras Hindu University	B. Sc. in Engineering, B. Sc. (Minning), B. Sc. (Met).
5. Calcutta University	B. E. Civil, Mechanical or Electrical Engineering B. E. Met. M. E. (Met).
6. College of Engineering and Technology, Bengal	(1) B. N. E., B. E. E., B. Ch. E. (2) B. E. E., (Communication Option), from 19th May, 1951. (3) Special Degree Examination up to April, 1950.
7. University of Science and Technology (formerly East Pakistan University of Science and Technology), Dacca	B. Sc. Engineering.
8. Dacca University	Degree in Engineering.
9. Aberdeen University	B. Sc. in Engineering (Honours or Ordinary Degree).*
10. Adelaide University	B. E. in Civil, Mechanical or Electrical Engineering.
11. Birmingham University	B. Sc. in Civil, Mechancial or Electrical Engineering (Honours or Ordinary Degree).
12. Bristol University	B. Sc. in Civil, Mechanical or Electrical Engineering (Honours or Ordinary Degree).
13. Cambridge University	(1) B. A. (Honours) in Mechanical Science, Tripos. (2) Ordinary Degree B. A., in Engineering, provided the Graduate has passed in principal subject, Engineering I, Engineering II and Engineering III.*
14. Cape Town University	B. Sc. in Engineering.
15. Dublin University	B. A. I. (Ordinary or with Honours in Engineering).
16. Durham University	(1) B. Sc. in Civil, Mechanical or Electrical Engineering or Naval Architecture (Honours or Ordinary Degree). (2) B. Sc. in Marine Engineering.

Engineering Institution	Recognised Engineering Qualifications
17. Edinburgh University	B. Sc. in Engineering.
18. Glasgow University	(1) B. Sc. in Engineering. (2) B Sc. in Naval Architecture (Honours or Ordinary Degree).
19. Leeds University	B. Sc. in Civil, Mechanical or Electrical or Marine Engineering or Naval Architechture (Honours or Ordinary Degree).
20. Liverpool University	B. Engg. in Civil, Mechancial, Electrical or Marine Engineering or Naval Architecture (Honours or Ordinary Degree).
21. London University	B. Sc. (Internal or External Degree) in Engineering (not including Metallurgy) (Honours or Ordinary Degree). B. Sc. (Internal) in Engineering (Mining) obtained in or after 1926. B. Sc. (External) in Engineering (Mining) (Honours Degree) obtained in or after 1935.
22. Manchester University	Certificate in Technology in Mechanical or Electrical Engineering.
23. Mc Gill University, Montreal	B. Sc. in Civil, Mechanical, Electrical, Metallurgical or Mining Engineering (Honours or Ordinary Degree).
24. Melbourne University	B.E.C.B. Mech. E, or B.E.E.
25. National University of Ireland	B.E.
26. New Zealand University	B. E. in Civil, Mechanical or Electrical Engineering.
27. Oxford University	B. A. with Honours in Engineering Science, Final Honours School.

Engineering Institution	Recognised Engineering Qualifications
28. Queens University, Belfast	B. Sc. in Engineering.
29. Queensland University	B. E. in Civil, Mechanical or Electrical Engineering.
30. Rangoon University	B. Sc. in Engineerning.
31. Sheffield University	B. Engg. in Civil, Mechanical or Electrical Engineering (Honours Degree or Ordinary Degree with a first class in the final Examination will not be required in the cases of Degrees obtained in or after June, 1930). B.E. (Met.) (Honours Degree).
32. South Africa University	B. Sc. in Engineering obtained before 1921.
33. St. Andrews University	B. Sc. in Engineering.
34. Sydney University	B. E. in Civil or Mechanical and Electrical Engineering.
35. Victoria University, Manchester	B. Sc. (Tech.) (Ordinary Course, Divisions I and II) in Electrical Engineering. B. Sc. (Tech.) (Higher Course, Honours or Ordinary Course, Division I) in Municipal Engineering. B. Sc. (Tech.) (Ordinary Degree obtained in or after 1930) in Municipal Engineering. B. Sc. (Tech.) (Ordinary Course, division I) in Mechanical Engineering. B. Sc. in Engineering (Honours or Ordinary Degree) from 1925. B. Sc. (Tech.) in Mechanical or Electrical Engineering (Honours in Final Examination).
36. Wales University	B. Sc. in Civil, Mechanical, or Electrical Engineering.

Engineering Institution	Recognised Engineering Qualifications
37. Western Australia University	B. E.
38. Witwaterarand University, Johannesburg	B. Sc. in Civil, Mechanical or Electrical Engineering.
39. American Universities/Institutions ...	Degrees and Diplomas of only those American Engineering Institutions the curricula of which has been accredited by the Engineer's Council for Professional Development, New York, provided they have actually been taken after a full course of studies of not less than three years in such Institutions, any period of exemption granted by the Institutions being included in reckoning these three years.

*These Degrees will be accepted only if taken after three years' study and the passing of the regular examination in these Universities. The condition as to three years' study will not, however, apply to those candidates who have taken a Degree which exempts them from a part of the University course, and have taken one of these Degrees in less than three years in accordance with the regulations of the University concerned.

ACT No. VI of 1976

An Act further to amend the Land Reforms (Baluchistan Pat Feeder. Canal) Regulation, 1972

WHEREAS it is expedient further to amend the Land Reforms (Baluchistan Pat Feeder Canal) Regulation, 1972 for the purpose hereinafter appearing;

AND WHEREAS the Proclamation of Emergency referred to in Article 280 of the Constitution is in force;

It is hereby enacted as follows:—

1. **Short title and commencement.**—(1) This Act may be called the Land Reforms (Baluchistan Pat Feeder Canal) Regulation (Amendment) Act, 1975.

(2) It shall come into force at once.

2. **Amendment of Land Reforms (Baluchistan Pat Feeder Canal) Regulation.**—In the Land Reforms (Baluchistan Pat Feeder Canal) Regulation, 1972, in paragraph 17, in clause (a) of the third proviso, for the figures, letters, words and comma "31st day of March, 1975" the figures, letters, words and comma "31st day of March, 1976" shall be substituted and shall be deemed to have been so substituted on the first day of April, 1975.

ACT No. VII OF 1976

An Act to repeal and re-enact the law relating to the preservation and protection of antiquities

WHEREAS it is expedient to repeal and re-enact the law relating to the preservation and protection of antiquities and to provide for matters connected therewith or ancillary thereto ;

It is hereby enacted as follows :—

1. **Short title, extent and commencement.**—(1) This Act may be called the Antiquities Act, 1975.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. **Definitions.**—In this Act, unless there is anything repugnant in the subject or context,—

(a) " Advisory Committee " means the Advisory Committee constituted under section 3 ;

(b) " ancient " means belonging or relating to any period prior to May, 1857 ;

(c) " antiquity " means—

(i) any ancient product of human activity, movable or immovable, illustrative of art, architecture, craft, custom, literature, morals, politics, religion, warfare or science or of any aspect of civilization or culture,

(ii) any ancient object or site of historical, ethnographical, anthropological, military or scientific interest,

(iii) any national monument, and

(iv) any other object or class of such objects declared by the Federal Government, by notification in the official Gazette, to be an antiquity for the purposes of this Act ;

(d) " dealer " means a person engaged in the business of buying and selling antiquities ; and " deal in antiquities " means to carry on such business ;

(e) " Director " means the Director of Archaeology, Government of Pakistan, and includes an officer authorised by him to exercise or perform all or any of the powers or functions of the Director under this Act ;

(f) " export " means taking out of Pakistan by land, sea or air ;

(g) " immovable antiquity " means an antiquity of any of the following descriptions, namely :—

(i) any archaeological deposit on land or under water,

(ii) any archaeological mound, tumulus, burial place or place of internment, or any ancient garden, structure, building, erection or other work of historical, archaeological, military or scientific interest,

(iii) any rock, cave or other natural object of historical, archaeological, artistic or scientific interest or containing sculpture, engraving, inscription or painting of such interest, and includes—

(1) any gate, door, window, panelling, dado, ceiling, inscription, wall-painting, wood work, metal work or sculpture or any other thing which is attached or fastened to an immovable antiquity ;

(2) the remains of an immovable antiquity ;

(3) the site of an immovable antiquity ;

(4) such portions of land or water adjoining the site of an immovable antiquity as are reasonably required for fencing or covering or otherwise preserving such antiquity ;

(5) the reasonable means of access to, and convenient inspection of an immovable antiquity ; and

(6) any urban site, street, group of buildings or public square of special value which the Federal Government, being of the opinion that its preservation is a matter of public interest by reason of its arrangement, architecture or materials of construction, by notification in the official Gazette, declares to be an immovable antiquity for the purposes of this Act ;

(h) " national monument " means any building, structure, erection, place of internment, garden, portion of land or any other place or thing of national importance as may be determined and notified as such from time to time by the Federal Government in consultation with the Advisory Committee ;

(i) " owner " includes—

(i) any person legally competent to act on behalf of the owner, when by reason of infancy or other disability the owner is unable to act ;

(ii) a joint owner invested with powers of management on behalf of himself and other joint owners and the successor in interest of such owner ; and

(iii) any manager or trustee exercising the powers of management and the successor in office of such manager or trustee ;

(j) " protected antiquity " means an antiquity which is declared under section 10 to be a protected antiquity ; and

(k) " rules " means rules made under this Act.

3. **Advisory Committee.**—(1) For the purposes of this Act, the Federal Government shall constitute an Advisory Committee consisting of the following members, namely :—

(a) the Director, who shall also be its Chairman ;

(b) one representative each of the Education Division and the Tourism Division ;

(c) three other persons having special knowledge of antiquities, to be nominated by the Federal Government.

(2) No act or proceeding of the Advisory Committee shall be deemed to be invalid by reason only of the existence of a vacancy in, or defect in the constitution of, the Committee.

4. **Dispute as to whether any product, etc., is an antiquity.**—If any question arises whether any product, object or site is an antiquity within the meaning of this Act it shall be referred to the Federal Government which shall, after consultation with the Advisory Committee, decide the same ; and the decision of the Federal Government shall be final.

5. **Custody, preservation, etc., of certain antiquities.**—(1) Where the Director receives any information or otherwise has the knowledge of the discovery or existence of an antiquity of which there is no owner, he shall, after satisfying himself as to the correctness of the information or knowledge, take such steps as he may consider necessary for the custody, preservation and protection of the antiquity.

(2) Where the owner of an antiquity is not traceable, the Director may, with the approval of the Federal Government, take such steps as he may consider necessary for the custody, preservation and protection of the antiquity.

6. **Power of entry, inspection, etc.**—(1) The Director may, after giving reasonable notice, enter into, inspect and examine any premises, place or area which or the sub-soil of which he may have reason to believe to be, or to contain an antiquity and may cause any site, building, object, or any antiquity or the remains of any antiquity in such premises, place or area to be photographed, copied or reproduced by any process suitable for the purpose.

(2) The owner or occupier of the premises, place or area shall afford all reasonable opportunity and assistance to the Director for the purposes of sub-section (1).

(3) No photograph, copy or reproduction taken or made under or for the purposes of sub-section (1) shall be sold or offered for sale except by or with the consent of the owner of the object of which the photograph, copy or reproduction has been taken or made.

(4) Where substantial damage is caused to any property as a result of the inspection under sub-section (1), the Director shall pay to the owner thereof reasonable compensation for the damage.

7. **Acquisition of land containing antiquities.**—If the Federal Government has reasonable grounds to believe that any land contains any antiquity it may direct the Provincial Government to acquire such land or any part thereof ; and the Provincial Government shall thereupon acquire such land or part under the Land Acquisition Act, 1894 (I of 1894), as for a public purpose.

8. **Purchase, taking lease, etc., of antiquity.**—(1) The Director may, with the previous sanction of the Federal Government, purchase, or take lease or accept a gift or bequest of, an antiquity.

(2) The Director may receive voluntary contributions and donations for the acquisition, preservation or restoration of antiquities and may make suitable arrangements for the management and application of the fund created by such contributions and donations :

Provided that a contribution or donation made for any specified purpose shall not be applied to any purpose other than that for which it has been made.

9. **Right of pre-emption in case of a sale of antiquity.**—(1) Where the Director receives any information or otherwise has the knowledge that any antiquity or any immovable property containing an antiquity is offered for sale or is about to be sold, he may, with the approval of the Federal Government, exercise the right of pre-emption with respect to such antiquity or property and, if he intends to exercise the right, shall give to the person competent to sell a notice in writing accordingly.

(2) If the Director does not exercise with respect to any antiquity or property the right of pre-emption within a period of three months from the date of notice given under sub-section (1), the antiquity or property may be sold to any person after the expiry of the said period and a notice of such sale shall be given to the Director.

(3) Save as provided in sub-section (2), no antiquity or property in respect of which a notice under sub-section (1) has been given shall be sold to any person.

(4) All sales in contravention of sub-section (3) shall be void and the antiquity or property so sold shall be forfeited to the Federal Government.

10. **Declaration of protected antiquities.**—(1) The Federal Government may, by notification in the official Gazette, declare any antiquity to be a protected antiquity for the purposes of this Act.

(2) A copy of a notification under sub-section (1) shall be served on the owner of the antiquity and ; in the case of an immovable antiquity, shall also be fixed up in a conspicuous place of or near the antiquity.

(3) A notification under sub-section (1) shall, unless it is cancelled by the Federal Government, be conclusive evidence of the fact that the antiquity to which it relates is a protected antiquity for the purposes of this Act.

(4) Antiquities declared to be protected antiquities under the Antiquities Act, 1968 (XIV of 1968), and ancient monuments deemed to be protected antiquities for the purposes of that Act, shall be deemed to be protected antiquities for the purposes of this Act.

11. **Representation against declaration of protected antiquities.**—(1) The owner of an antiquity to which a notification under section 10 relates, or any person having any right or interest in the antiquity, may, within three months of the service of a copy of the notification, make a representation in writing to the Federal Government against the notification.

(2) Upon the receipt of a representation under sub-section (1) against a notification, the Federal Government, after giving the person making it an opportunity of being heard and after consultation with the Advisory Committee, may, if it is satisfied that there are good and sufficient reasons for objection to the notification, cancel it.

12. **The guardianship of antiquity by agreement.**—(1) The owner of any immovable antiquity or protected antiquity may, by an agreement in writing constitute the Director the guardian of such antiquity and the Director may, with the previous sanction of the Federal Government, accept such guardianship.

(2) Where the Director has accepted the guardianship of an antiquity in pursuance of an agreement under sub-section (1), the owner shall, except as expressly provided in this Act and in the agreement, have the same right, title and interest in and to the antiquity as if the Director had not been constituted the guardian thereof.

(3) An agreement under this section in relation to an antiquity may provide for all or any of the following matters, namely :—

(a) the maintenance of the antiquity ;

(b) the custody of the antiquity and the duties of any person who may be employed to watch it ;

(c) the restrictions upon the right of the owner to alienate, destroy, remove, alter or deface the antiquity or to build on or near the site of the antiquity ;

(d) the facilities of access to be allowed to the public ;

(e) the facilities to be allowed to persons deputed by the owner or the Director for inspection and maintenance of the antiquity ;

(f) the expenses to be incurred in connection with the preservation of the antiquity and payment of such expenses if incurred by the owner ;

(g) compensation to be paid for any loss sustained by the owner or occupier or any other person as a result of the enforcement or observance of the agreement ; and

(h) any other matter connected with the custody, management and preservation of the antiquity.

(4) The terms of an agreement under this section may be altered from time to time with the sanction of the Federal Government and with the consent of the owner.

(5) An agreement under this section in relation to an antiquity may be terminated upon six months' notice in writing given by the Director, with the previous sanction of the Federal Government, to the owner or by the owner to the Director.

13. **Purchasers at certain sales and persons claiming through owner bound by agreement entered into by owner.**—Notwithstanding anything contained in any other law for the time being in force, every person who, at a sale for the recovery of arrears of land revenue or any other public demand, purchases any land or property, or any right or interest in land or property, which contains, or in which is situated an antiquity in respect of which an agreement under section 12 subsists, and every person claiming any title to any antiquity from, through or under an owner who entered into such agreement, shall be bound by such agreement.

14. **Application of endowment for maintenance and preservation of antiquity.**—(1) Where any endowment has been created for the maintenance and preservation of any protected antiquity, or for that purpose among others, and the owner or other person competent in this behalf fails in the proper application of such endowment and, when proposed to him by the Director, refuses or fails to enter into an agreement under section 12, the Director may, for the proper application of such endowment or part thereof, institute a suit in the Court of the District Judge, or, where the estimated cost of maintaining and preserving the antiquity does not exceed one thousand rupees, make an application to the District Judge.

(2) On the hearing of an application under sub-section (1), the District Judge may summon and examine the owner and any person whose evidence appears to him necessary, and may pass an order for the proper application of the endowment or of any part thereof, and any such order may be executed as if it were the decree of a Civil Court.

15. **Compulsory acquisition of protected immovable antiquity.**—(1) If the Federal Government apprehends that a protected immovable antiquity is in danger of being destroyed, injured or allowed to fall into decay, it may, after consultation with the Advisory Committee, direct the Provincial Government to acquire such antiquity or any part thereof ; and the Provincial Government shall thereupon acquire such antiquity or part under the Land Acquisition Act, 1894 (I of 1894), as for a public purpose.

(2) The power of compulsory acquisition under sub-section (1) shall not be exercised in the case of—

(a) any antiquity which or any part of which is periodically used for religious observances ; or

(b) any antiquity which is the subject of a subsisting agreement under section 12 ; or

(c) any other antiquity unless the owner or other person competent in this behalf has, when proposed to him by the Director, failed to enter into an agreement under section 12 within such period, not being less than six months, as the Director may fix.

16. **Compulsory acquisition of movable antiquities.**—(1) If the Federal Government is of the opinion that any movable antiquity should, by reason of its cultural, historical or archaeological importance, be acquired for the purpose of preservation, the Federal Government may, by order in writing addressed to **the owner,** acquire such antiquity :

Provided that the power to acquire under this sub-section shall not extend to—

(a) any image or symbol in actual use for the purpose of any religious observance ; or

(b) anything which the owner desires to retain on any reasonable ground personal to himself or to any of his ancestors or to any member of his family.

(2) When an order under sub-section (1) has been served upon the owner, the antiquity to which the order relates shall immediately vest in the Federal Government free from all encumbrances and the owner shall be entitled to compensation,

the amount of which shall be determined in the manner, and in accordance with the principles, hereinafter set out, that is to say,—

(a) where the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement;

(b) where no such agreement can be reached, the Federal Government shall appoint as arbitrator a person who has been, or is qualified for appointment as, a Judge of a High Court;

(c) at the commencement of the proceedings before the arbitrator, the Federal Government and the person to be compensated shall state what in their respective opinions is a fair amount of compensation;

(d) the arbitrator in making his award shall have regard to the price which the antiquity is likely to fetch on a sale in open market between a buyer and a seller independent of each other;

(e) an appeal shall lie to the High Court against any award of an arbitrator except in case where the amount thereof does not exceed an amount prescribed in this behalf by rules; and

(f) save as provided in this sub-section and in any rules made in this behalf, nothing in any law for the time being in force shall apply to arbitrations under this sub-section.

17. **Protection of place of worship from misuse, etc.**—(1) A place of worship or shrine, being an antiquity maintained by the Federal Government, shall not be used for any purpose inconsistent with its character.

(2) A place of worship or shrine in respect of which the Director has accepted guardianship in pursuance of an agreement under section 12 shall, unless the agreement otherwise provides, be maintained by the person in whom it is vested or, if there is no such person, by the Federal Government.

(3) Where any antiquity in respect of which the Federal Government has acquired any right under this Act or the Director has accepted guardianship is periodically used for religious worship or observances by any community, the Director shall provide for the protection of such antiquity from pollution or desecration—

(a) by prohibiting the entry therein, except in accordance with the conditions prescribed with the concurrence of the person in charge of the antiquity, of any person not entitled so to enter by the religious usages of the community by which the antiquity is used; and

(b) by taking with the concurrence of the person in charge of the antiquity such other action as he may think necessary for the purpose.

(4) Whoever contravenes the provisions of sub-section (3) shall be punishable with imprisonment for a term which may extend to three months, or with fine, or with both.

18. **Restriction on use of protected immovable antiquity.**—A protected immovable antiquity shall not be used for any purpose inconsistent with its character or for a purpose other than that directly related to its administration and preservation.

19. **Prohibition of destruction, damage, etc., of protected antiquities.**—(1) No person shall, except for carrying out the purposes of this Act, destroy,

break, damage, alter, injure, deface or mutilate or scribble, write or engrave any inscription or sign on, any antiquity or take manure from any protected antiquity,

(2) Whoever contravenes the provisions of sub-section (1) shall be punishable with rigorous imprisonment for a term which may extend to three years, or with fine, or with both.

(3) The court trying an offence under sub-section (2) may direct that the whole or any part of the fine recovered shall be applied in defraying the expenses of restoring the antiquity to the condition in which it was before the commission of the offence.

20. **Restriction on repairs, renovation, etc., of protected immovable antiquity.**—(1) The owner of a protected immovable antiquity shall not make any alteration or renovation in, or addition to, the antiquity :

Provided that he may, with the permission of the Director, make minor adjustments considered necessary for the day to day use of the antiquity :

Provided further that the work for which permission has been given shall be carried out under the supervision of the Director or a person authorised by him in this behalf.

(2) Whoever contravenes the provisions of sub-section (1) shall be punishable with rigorous imprisonment for a term which may extend to one year, or with fine, or with both.

21. **Direction to the owner to take measures for preservation of antiquity.**—(1) Where the Director considers that any antiquity is not being preserved or conserved properly by its owner, the Director may, by order in writing, direct the owner to take such measures for its proper preservation and conservation, and within such time, as may be specified in the order.

(2) If the owner fails to take the measures specified in the order referred to in sub-section (1), the Director may take all such measures in respect of the antiquity and the expenses incurred for the purpose shall be recoverable from the owner as an arrear of land revenue.

22. **Execution of development schemes and new constructions in proximity to immovable antiquity.**—Notwithstanding anything contained in any other law for the time being in force, no development plan or scheme or new construction on, or within a distance of two hundred feet of, a protected immovable antiquity shall be undertaken or executed except with the approval of the Director.

23. **Prohibition of bill posting, neon signs, other kinds of advertisements, etc.**—(1) No person shall put any neon signs or other kinds of advertisement, including bill posting, commercial signs, poles or pylons, electricity or telepone cables and television aerials, on or near any protected immovable antiquity.

(2) Whoever contravenes the provision of sub-section (1) shall be punishable with rigorous imprisonment for a term which may extend to one year, or with fine which may extend to ten thousand rupees, or with both.

(3) The court trying an offence under sub-section (2) may direct that the whole or any part of the fine recovered shall be applied in defraying the expenses of restoring the antiquity to the condition in which it was before the commission of the offence.

24. **Penalty for conterfeiting etc., of antiquity.**—(1) Whoever counterfeits, or commits forgery in respect of any antiquity with intent to commit fraud or knowing to be likely that fraud will thereby be committed, or causes anything to appear like, or to be believed to be, an antiquity with intent to cause wrongful gain to one person or wrongful loss to another person shall be punishable with, imprisonment for a term which may extend to six months or with fine, or with both.

(2) The court trying an offence under sub-section (1) may direct that anything the making or forging of which has constituted such offence shall stand forfeited to the Federal Government.

25. **Dealing in antiquities.**—(1) No person shall deal in antiquities except under, and in accordance with, a licence granted by the Director.

(2) Every dealers shall maintain a register in such manner and form as the Director may prescribe from time to time.

(3) A licence granted under sub-section (1) may be cancelled by the Director for the breach of any condition of the licence.

(4) The Director may, with a view to securing compliance with the provisions of this section,—

(a) require any person dealing in antiquities to give such information in his possession with respect to any business carried on by him as the Director may demand;

(b) inspect or cause to be inspected any book, register or other document belonging to or under the control of any person dealing in antiquities; and

(c) enter and search, or authorise any officer subordinate to him to enter and search, any premises and seize, or authorised any such officer or a police officer, to seize, any antiquity in respect of which he has reason to believe that a contravention of any provision of this section or a breach of any condition of the licence has been committed.

(5) Whoever contravenes the provisions of this section shall be punishable with rigorous imprisonment for a term which may extend to three years, or with fine, or with both.

(6) The court trying an offence under sub-section (5) may direct that any antiquity in respect of which the offence has been committed shall stand forfeited to the Federal Government.

26. **Export of antiquities.**—(1) No person shall export any antiquity except under a licence to be granted by the Director—

(a) for the temporary export of antiquities for the purpose of exhibition, examination or treatment for preservation; or

(b) in accordance with agreements with foreign licences for archaeological exploration and excavations within the term of their licences; or

(c) for the export of antiquities which are not of a unique nature in exchange for antiquities of any foreign country

(2) All antiquities the export of which is prohibited under sub-section (1) shall be deemed to be goods of which the export has been prohibited under section 16 of the Customs Act, 1969 (IV of 1969), and all the provisions of that Act shall have effect accordingly, except that the antiquity in respect of which the provisions of that Act have been contravened shall be confiscated where confiscation is authorised under that Act.

27. **Traffic in movable antiquities.**—(1) If the Federal Government apprehends that movable antiquities in any place in Pakistan are being sold or removed to the detriment of Pakistan, it may, by notification in the official Gazette, prohibit or restrict the movement of any such antiquity or any class of such antiquities for such period and between such places in Pakistan as may be specified in the notification, except with, and in accordance with the terms of, the written permission of the Director.

(2) Whoever contravenes the provisions of a notification under sub-section (1) shall be punishable with rigorous imprisonment for a term which may extend to three years, or with fine, or with both.

(3) The court trying an offence under sub-section (2) may direct that any antiquity in respect of which the offence has been committed shall stand forfeited to the Federal Government.

28. **Regulation of mining, quarrying, etc.**—(1) If the Federal Government is of the opinion that for the purpose of protecting or preserving any immovable antiquity it is necessary so to do, it may, by notification in the official Gazette, prohibit or restrict, within such area as may be specified therein, mining, quarrying, excavating, blasting and other operations of a like nature, or the movement of heavy vehicles, except under and in accordance with the terms of a licence granted by the Director and rules, if any, made in this behalf.

(2) Any owner or occupier of land who sustains any loss by reason of any prohibition or restriction by a notification under sub-section (1) shall be paid reasonable compensation for such loss.

(3) Whoever contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

29. **Prohibition of archaeological excavation or exploration without licence.**—(1) No person shall make on any land any excavation or exploration for archaeological purposes, or unearth or attempt to unearth or make any digging in any land or site for taking out antiquities, except under, and in accordance with, a licence granted by the Director.

(2) A licence under sub-section (1) in respect of any land shall not be granted to any person other than the owner of the land except in accordance with the term of an agreement with the owner, and any such agreement may provide for—

(a) the restriction of the owner's rights in respect of the use and occupation of such land ;

(b) the compensation or any other consideration to be paid to the owner ; and

(c) any other matter connected with the use of the land for the purpose of such excavation.

(3) A licence under sub-section (1) shall not be refused to an owner if he undertakes to carry on the excavation in such manner that it will not result in the loss of archaeological or historical material which in the national interest should be preserved.

(4) Whoever contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

(5) The court trying an offence under sub-section (4) may direct that any object found in the course of an excavation, exploration, unearthing or digging constituting such offence shall stand forfeited to the Federal Government.

30. **Prohibition of making copies of protected antiquities without licence.**—No person shall, for any commercial purpose, make a cinematograph film of any protected antiquity or any part thereof except under, and in accordance with, a licence granted by the Director.

31. **Right of access to protected immovable antiquities.**—Subject to the provisions of this Act and the rules, the public shall have a right of access to any immovable protected antiquity maintained by the Federal Government under this Act.

32. **Penalty.**—A contravention of any provision of this Act or the rules shall, where no punishment has been specifically provided, be punishable with rigorous imprisonment for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both.

33. **Jurisdiction to try offences.**—No court shall take cognizance of an offence punishable under this Act except upon a complaint in writing made by an officer generally or specially empowered in this behalf by the Federal Government and no court inferior to that of a magistrate of the first class shall try any such offence.

34. **Power to arrest without warrant.**—(1) The Director or any officer duly empowered by him in this behalf may arrest without warrant any person against whom reasonable suspicion exists of his having committed any offence under section 19, 25, 26, 27 or 29.

(2) Subject to sub-section (3), every person arrested under sub-section (1) shall be taken forthwith to the officer-in-charge of the nearest police station.

(3) The Director or the officer arresting any person, or the officer-in-charge of a police station to whom any person is taken under sub-section (2), shall either admit him to bail to appear before the Magistrate having jurisdiction or have him taken in custody before such Magistrate.

35. **Confiscated antiquities to be made over to Director.**—Any antiquity which is confiscated or forfeited under this Act shall be made over to the Director for custody, preservation and protection.

36. **Indemnity.**—No suit, prosecution or other legal proceeding shall lie against Government or any person for any thing which is in good faith done or intended to be done under this Act.

37. **Power to make rules.**—(1) The Federal Government may, after previous publication, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the form and the conditions of any licence granted under this Act ;

(b) regulation of admission of the public to any immovable protected antiquity ;

(c) the levy of fees for the grant of any licence under this Act and for admission of the public to an immovable protected antiquity ;

(d) the procedure to be followed in arbitrations, the principles to be followed in apportioning the costs of proceedings before the arbitrator and on appeal, and the maximum amount of an award against which no appeal shall lie, under sub-section (2) of section 16 ;

(e) such other matters as are or may be required for carrying into effect the provisions of this Act.

(3) Rules made under this section may provide that the contravention of any of the provisions thereof or of any condition of a licence granted under this Act shall be punishable with fine which may extend to five hundred rupees.

38. **Repeal.**—The Antiquities Act, 1968 (XIV of 1968), and the Antiquities Ordinance, 1975 (XX of 1975), are hereby repealed.

M. A. HAQ,
Secretary.

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 14th January, 1976

No. F. 24(1)/76-Pub.— The following Ordinance made by the President on the 10th January, 1976 is hereby published for general information :—

ORDINANCE No. II OF 1976

AN

ORDINANCE

to repeal and, with certain modifications, re-enact the Emigration Act, 1922

WHEREAS it is expedient to repeal and, with certain modifications, re-enact the Emigration Act, 1922 (VII of 1922) ;

AND WHEREAS the National Assembly is not in session and the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President is pleased to make and promulgate the following Ordinance :—

CHAPTER I

PRELIMINARY

1. **Short title, extent, application and commencement.**—(1) This Ordinance may be called the Emigration Ordinance, 1976.

(2) It extends to the whole of Pakistan and also applies to all citizens of Pakistan, wherever they may be.

(3) It shall come into force at once.

2. **Definitions.**—(1) In this Ordinance, unless there is anything repugnant in the subject or context,—

(*a*) " dependant " with reference to an emigrant means,—

(*i*) the spouse and un-married daughters of the emigrant ;

(*ii*) his sons who have not attained the age of twenty-one years ;

(*iii*) his parents, brothers under the age of eighteen years, divorced or widowed daughters and unmarried, divorced or widowed sisters, if living with and dependant upon him ; and

(*iv*) widowed daughters of the emigrant's widowed or divorced daughter or sister if living with and dependant upon him.

(*b*) " Director-General " means Director-General of Emigration and Overseas Employment appointed under section 3 ;

(*c*) " emigrate " and " emigration " mean the departure by sea, air or land out of Pakistan of any person for the purpose, or with the intention, of working for hire or engaging in any trade, profession or calling in any country beyond the limits of Pakistan ;

(*d*) " emigration agent " means a person licensed as such under section 25 ;

(*e*) " emigrant " means any person who emigrates or has emigrated or who has been registered as an emigrant under this Ordinance and includes any dependant of an emigrant ;

(*f*) " emigrant ship, aircraft or vehicle " means any ship, aircraft or vehicle specially chartered for the conveyance of emigrants, or conveying emigrants exceeding a number to be prescribed :

Provided that the Federal Government may, by notification in the official Gazette, declare that ships, aircraft or vehicles conveying emigrants to any specified port or place shall not be deemed to be emigrant ships, aircraft or vehicles ;

(*g*) " prescribed " means prescribed by rules made under this Ordinance ;

(*h*) " professional and technical person " includes—

(*i*) a person who is, or has been, a member of the Armed Forces of Pakistan ;

(*ii*) a person in the service of Pakistan or in the service of a local authority or a corporation owned or controlled by the Federal Government or a Provincial Government ;

(*iii*) an engineer ;

(*iv*) a technologist and a technician ;

(*v*) a scientist ;

(*vi*) a person qualified to practise the allopathic system of medicine; a surgeon ; a radiologist ; an aphthalmologist ; an optician ; a dentist ; a nurse ; a nursing-aid ;

(*vii*) an economist ;

(*viii*) a teacher ; an educationist ;

(*ix*) an aircraft pilot ; a marine pilot ;

(*x*) a machinist ;

(*xi*) a person trained in banking ;

(*xii*) a chartered accountant, a cost accountant and a works accountant ; and such other categories of persons as the Federal Government may, by notification in the official Gazette, specify in this behalf, but does not include a skilled worker or an unskilled worker ;

(*i*) " skilled worker " means a person who is—

(*i*) an artisan, including an electrician, a plumber, a welder, a motor mechanic, a mason and a tailor ; and

(*ii*) such other category of persons as the Federal Government may, by notification in the official Gazette, specify in this behalf ;

(*j*) " unskilled worker " means a person who is not a technical person or a skilled worker ;

(*k*) " work " with its grammatical variations, means skilled or unskilled work ;

(2) In case of any doubt or dispute arising otherwise than in the course of any legal proceedings as to whether—

(*a*) any person is an emigrant, or

(*b*) any person is a professional and technical person or skilled worker or an unskilled worker,

within the meaning of this Ordinance, the question shall be determined by such person and in such manner as the Federal Government may prescribe, and such determination shall be final.

CHAPTER II

DIRECTOR-GENERAL, PROTECTOR OF EMIGRANTS AND MEDICAL INSPECTORS

3. **Director-General of Emigration and Overseas Employment.**—(1) The Federal Government may appoint a person to be the Director-General of Emigration and Overseas Employment for the whole of Pakistan and may appoint, or authorise the Director General to appoint, such other officers as may be necessary or expedient to assist the Director-General.

(2) The Director-General and every other officer appointed under sub-section (1) shall be a public servant within the meaning of section 21 of the Pakistan Penal Code (Act XLV of 1860).

4. **Functions of Director-General.**—Subject to the other provisions of this Act and the over-all supervision and control of the Federal Government, the Director-General shall take such measures as may be necessary—

(*a*) to promote emigration of citizens of Pakistan ; and

(*b*) to control and regulate such emigration.

5. **Appointment of Protectors of Emigrants.**—(1) The Federal Government may appoint a person to be the Protector of Emigrants for any port or other place from which emigration is lawful.

(2) The Federal Government may define the area to which the authority of a Protector of Emigrants so appointed shall extend.

(3) Every Protector of Emigrants shall be a public servant within the meaning of the Pakistan Penal Code (Act XLV of 1860).

6. **General duties of Protector.**—Every Protector of Emigrants, in addition to the special duties assigned to him by or under this Ordinance shall—

(*a*) protect and aid with his advice all emigrants ;

(*b*) cause, so far as he can, all the provisions of this Ordinance and of the rules made thereunder to be complied with ;

(*c*) inspect, at the time of arrival, to such extent and in such manner as may be prescribed, vessels, aircraft and vehicles bringing return emigrants to the port or place for which he is Protector ;

(*d*) inquire into the treatment received by return emigrants both during the period of their residence in the country to which they emigrated and also during the return journey and report thereon to the Federal Government ;

(*e*) aid and advise return emigrants so far as he reasonably can ; and

(*f*) submit reports to the Director-General on the conduct of emigration agents.

7. **Power to appoint persons to exercise functions of a Protector.**—(1) In any specified area where there is not a Protector of Emigrants, the Federal Government may appoint any person to perform all or any of the duties of a Protector of Emigrants under this Ordinance.

(2) Every person so appointed shall be a public servant within the meaning of the Pakistan Penal Code (Act XLV of 1860).

8. **Appointment of Medical Inspectors.**—(1) The Federal Government may appoint one or more Medical Inspectors of Emigrants at any port or other place from which emigration is lawful or at any other place, and, where more than one are appointed, may apportion their respective duties.

(2) Every Medical Inspector of Emigrants shall be a public servant, within the meaning of the Pakistan Penal Code (Act XLV of 1860).

9. **Agents in foreign countries.**—The Federal Government may, for the purpose of safeguarding the interests of emigrants in any place outside Pakistan, appoint persons to be agents in such places and may define their powers and duties.

10. **Advisory Committee.**—The Federal Government may, for the purpose of assisting any Protector of Emigrants appointed by it or any person appointed by it under section 7, constitute an Advisory Committee in such manner as it may think fit, and may prescribe the procedure to be followed and the functions to be performed by such Committee.

CHAPTER III

EMIGRATION OF UNSKILLED WORKERS

11. **Ports from which emigration of unskilled workers is lawful.**—(1) Emigration of unskilled workers shall not be lawful except from the port of Karachi, and from such other ports or other places as the Federal Government may, by notification in the official Gazette, declare to be ports or other places from which such emigration is lawful.

(2) The Federal Government may, by notification in the official Gazette, fix for the purpose of this Ordinance the limits of any port or other place from which such emigration is lawful.

12. **Countries to which emigration of unskilled workers is lawful.**—Emigration of unskilled workers shall not be lawful except to such countries and on such terms and conditions as the Federal Government may, by notification in the official Gazette, specify in this behalf.

13. **Power to suspend emigration of unskilled workers.**—(1) Where the Federal Government has reason to believe that, in any country to which emigration of unskilled workers is lawful, plague or any other epidemic disease dangerous to human life has broken out and that emigrants if allowed to emigrate to that country would be exposed to serious risk to life on arrival there, it may, by notification in the official Gazette, declare that emigration of unskilled workers to that country shall cease to be lawful.

(2) Where the Protector of Emigrants for any port or other place has reason to believe that such a state of affairs as is described in sub-section (1) exists in any country to which emigration of unskilled workers is lawful, he may, by notification in such manner as he thinks fit, declare that emigration of unskilled workers to that country from that port or place shall cease to be lawful pending a reference to the Federal Government.

(3) The Protector of Emigrants publishing a notification under sub-section (2) shall forthwith report such notification with the reason for it to the Federal Government, which shall thereupon publish a notification in the official Gazette confirming or cancelling the notification published by the Protector of Emigrants.

14. **Revocation of prohibition.**—Where the Federal Government is satisfied that the ground on which a notification under sub-section (1) of section 13, or a notification under sub-section (3) of that section, confirming a notification of a Protector of Emigrants, has been made with respect to any country has ceased to exist, it may, by notification in the official Gazette, declare that emigration of unskilled workers to that country shall again be lawful from a date to be specified in the notification.

15. **Power of Federal Government to prohibit emigration to specified country.**—The Federal Government may, by notification in the official Gazette, prohibit, from a date, and for reasons, to be specified in the notification, all unskilled workers or any specified class of such workers from emigrating to any specified country from the Federal Capital or the territories under the administration of any Provincial Government or any specified part thereof.

16. **Saving.**—A notification under section 12, section 13, section 14, or section 15 shall not affect any act done, offence committed, or legal proceedings commenced before the date on which such notification takes effect.

CHAPTER IV

EMIGRATION OF SKILLED WORKERS

17. **Ports from which emigration of skilled workers is lawful.**—Emigration of skilled workers shall not be lawful except from a port or other place from which emigration of unskilled workers is lawful and from such other ports or places as the Federal Government may, by notification in the official Gazette, specify in this behalf.

18. **Power to regulate or prohibit emigration of skilled workers.**—Where the Federal Government has reason to believe that sufficient grounds exist for regulating or prohibiting emigration of skilled workers or any category thereof, it may, by notification in the official Gazette, declare that such emigration shall be regulated in the manner specified in the notification or prohibited from a date so specified; and from that date such emigration shall accordingly be regulated or prohibited.

CHAPTER V

GENERAL

19. **Regulation of departure of certain classes of persons out of Pakistan.**—(1) No professional and technical persons shall depart by sea, air or land out of Pakistan, unless he is in possession of a no objection certificate issued under section 21, nor otherwise than in accordance with such condition, if any, as may be prescribed.

(2) The provisions of sub-section (1) shall not apply to any person departing out of Pakistan in pursuance of an agreement entered into by the Federal Government with a foreign employer ; and such agreement may, among other matters, provide for—

(*a*) the remuneration payable to such person for his service under the foreign employer being paid, in the currency of the country where he is to be employed, to the Federal Government ; and

(*b*) such person being paid by the Federal Government such remuneration, partly in the currency of the foreign country where he is employed and partly in Pakistan currency, or wholly in the currency of that foreign country, as the Federal Government may deem fit, having regard to the cost of living in that country.

20. **Prohibition of advertisement, etc.**—No person shall recruit a citizen of Pakistan or issue an advertisement or hold an examination for such recruitment for the purpose of his emigration or studies or employment abroad, except with the prior permission of the Federal Government and in accordance with such conditions, if any, as the Federal Government may impose.

21. **No-objection certificate.**—(1) Any professional and technical person who proposes to depart out of Pakistan may make an application to the prescribed authority, in such form as may be prescribed, for the issue of a no-objection certificate.

(2) An application under sub-section (1) shall be accompanied by such fees and such documents as may be prescribed.

(3) On receiving an application under sub-section (1), the prescribed authority may, in such circumstances and subject to such conditions as the Federal Government may, from time to time specify, issue a no-objection certificate to the applicant.

22. **Capitation fee.**—(1) There shall be paid to the Federal Government by every professional and technical person who departs out of Pakistan after the commencement of this Ordinance for exercising or following any profession, occupation or employment, a capitation fee at such monthly, quarterly or annual rate, not exceeding twenty per cent of the income earned by him outside Pakistan, as may be prescribed having regard to such income and the country in which he is employed.

(2) The capitation fee shall be payable in the currency of the country in which the person by whom it is payable is exercising or following any profession, occupation or employment to such authority and in such manner as may be prescribed.

(3) Every professional and technical person who—

(*a*) is exercising or following in any country outside Pakistan at the commencement of this Ordinance any profession, occupation or employment shall, within ninety days of such commencement, or

(*b*) departs out of Pakistan for exercising or following any profession, occupation or employment after such commencement shall, within ninety days of his arrival in the country in which he is exercising or following, or proposes to exercise or follow, any profession, occupation or employment,

apply for registration to the Pakistan Mission in that country, in such form as may be prescribed.

(4) The provisions of this section shall not apply to any person emigrating or departing out of Pakistan in pursuance of an agreement entered into by the Federal Government with a foreign employer.

23. **Finality of order, etc.**—(1) An order made by the prescribed authority under this Ordinance shall, subject to the provisions of sub-section (2) and sub-section (3), be final.

(2) The Federal Government may, on an application made by any person aggrieved by an order of the prescribed authority within thirty days from the date of the order, pass such order in relation thereto as it thinks fit ; and such order of the Federal Government shall be final.

(3) Where the Federal Government is of opinion that a no-objection certificate has been issued to any person in contravention of a general or special direction issued by it, the Federal Government may, after affording such person an opportunity of showing cause against the action proposed to be taken, revoke such certificate.

24. **Applications by persons desiring to engage, etc. any person to emigrate.—** Whoever desires to engage, or to assist, any person to emigrate shall apply for a licence to the Federal Government and shall with his application, furnish such information and documents, pay such fee, and furnish such security and at such time, as may be prescribed.

25. **Applications how to be disposed of.**—(1) On receiving an application under section 24, the Federal Government may, after such inquiry as it may deem necessary, grant the licence applied for on such terms and conditions, if any, and on payment of such fees, if any, as it thinks fit, or withhold such licence ; and the decision of the Federal Government shall be final.

(2) The Director-General shall maintain, in such form as may be prescribed, a register of the names of all persons to whom licences have been granted under sub-section (1).

26. **Appearance of engaged persons before, and registration of names by, Protector of Emigrants.**—(1) Before any person emigrates, the emigration agent by whom he has been engaged or assisted shall appear in person or by his duly authorised agent before the Protector of Emigrants at the port of embarkation or the place of departure with such first mentioned person and with any persons intending to accompany him as his dependants.

(2) On such appearance before the Protector of Emigrants concerned, the emigration agent or his authorised sub-agent shall furnish to the Protector information as to—

(*a*) the place beyond the limits of Pakistan to which the person whom he proposes so to engage or assist and his dependants are to proceed ;

(*b*) the accommodation to be provided for such person and his dependants until their departure out of Pakistan and during the journey ;

(*c*) the provision to be made for the health and well being of such person and his dependants during the period of the proposed engagement and for their repatriation at the end of such period ;

(*d*) the terms of the agreement under which such person is to be engaged ; and

(*e*) the security in Pakistan which he proposes to furnish for the due observance of such agreement and for the proper treatment of the person to be engaged and his dependants.

(3) If it appears to the Protector of Emigrants—

(*a*) that a licence under sub-section (1) of section 25 has been duly granted to the emigration agent,

(*b*) in the case of an engagement, that the terms of the agreement under which such person has been engaged are in accordance with the terms of the licence granted and are understood by him,

(*c*) that the conditions on which the licence was granted have been complied with, and

(*d*) that satisfactory arrangements have been made by the emigration agent or his authorised sub-agent in respect of matters specified in sub-section (2), he shall grant the necessary permission and register in a book kept for the purpose such particulars concerning the person engaged or assisted and his dependants, if any, and concerning the emigration agent engaging or assisting him, and in such form, as may be prescribed.

27. **Provisions as to security.**—Where such security as is referred to in section 24 has been furnished, the Federal Government may, at any time, if satisfied, after making such inquiry as it may deem necessary, that there has been failure to duly observe the terms of the agreement in respect of which such security was furnished or want of proper treatment of the person engaged or any of his dependants, pass orders in regard to the forfeiture of the security in whole or in part and the application of the same or any part thereof, and on the expiry of the period to which the agreement relates and on being satisfied that no ground exists for forfeiting the security in whole or in part, order the return of the security or of any part thereof to the person by whom it was furnished or to his representative.

28. **Delegation to Protector of Emigrants of authority to receive or dispose of applications.**—The Federal Government may, by notification in the official Gazette, authorise a Protector of Emigrants or any other officer subordinate to it to receive and dispose of applications made under section 24 :

Provided that an appeal shall lie to the Federal Government from every order passed by a Protector of Emigrants or such other officer in exercise of the authority so conferred.

29. **Power to cancel licences, etc.**—Notwithstanding anything contained in this Ordinance, if, at any time, it appears to the Federal Government that, in the public interest, it is necessary to discontinue the practice of granting licences to emigration agents, to cancel all licences granted to emigration agents and to make alternate arrangements in respect of the functions performed by the emigration agents, it may, by notification in the official Gazette, cancel all such licences and make such arrangements in respect of the functions aforesaid as may appear to it to be best suited to the needs of persons desiring to emigrate.

30. **Power to prohibit departure by sea, air or land from Pakistan.**—The Federal Government may, by notification in the official Gazette, from a date and for reasons to be specified in the notification prohibit all persons or any class or persons from departing by sea, air or land out of Pakistan to any specified country beyond the limits of Pakistan unless possessed of a prescribed permit or otherwise exempted by general or special order of the Federal Government from the provisions of the notification.

31. **Power to make rules.**—(1) The Federal Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Ordinance.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(*a*) The powers and duties of the several officers appointed by the Federal Government under this Ordinance ;

(*b*) the person by whom any doubt or dispute referred to in sub-section (2) of section 2 shall be determined and the procedure to be followed and the proof to be required in such cases ;

(*c*) the licensing, supervision and control of emigration agents and the prohibition of unlicensed persons from being engaged in causing or assisting persons to emigrate and in the conveyance and accommodation of emigrants ;

(*d*) the establishment, supervision and regulation of any places of accommodation provided for emigrants and for their medical care while resident there ;

(*e*) the forms to be maintained and the returns to be submitted by emigration agents ;

(*f*) the information to be furnished by emigration agents to emigrants and the language in which such information is to be furnished ;

(*g*) the production and examination of emigrants before District Magistrates or such other authorities as may be appointed in this behalf ;

(*h*) the age below which persons of either sex may not emigrate except as dependants ;

(*i*) the accommodation, the provisions, fuel and other necessaries, the medical stores and staff, the life-saving and sanitary arrangements, and the records to be maintained on emigrant ships ;

(*j*) the reception and the despatch to their homes of return emigrants ;

(*k*) the fees, if any, payable by emigration agents to the Protectors of Emigrants for each emigrant departing from Pakistan ;

(*l*) the issue of the permits referred to in section 30 ;

(*m*) execution of a bond by an emigrant, or person proceeding abroad for education, studies or training, in which he undertakes to return to Pakistan after a specified period and to pay the capitation fee payable by him, if any ;

(*n*) the rate of capitation fee and the authority to which, and the manner in which, it shall be paid ; and

(*o*) generally, the security, well being and protection of emigrants up to the date of their departure from Pakistan, during a journey on an emigrant ship, aircraft or vehicle, and on their return to Pakistan.

CHAPTER VI

OFFENCES

32. **Unlawful emigration, etc.**—(1) Whoever, except in conformity with the provisions of this Ordinance and the rules made thereunder, emigrates or departs out of Pakistan, or attempts to emigrate or depart out of Pakistan or fails to comply with the provisions of sub-section (3) of section 22, shall be punishable with imprisonment for a term which may extend to three years and with fine which may extend to twenty thousand rupees.

(2) Whoever, except in conformity with the provisions of this Ordinance or of the rules made under this Ordinance,

(*a*) makes, or attempts to make, any agreement with any person purporting to bind that person, or any other person, to emigrate or depart out of Pakistan, or (*b*) causes or assists, or attempts to cause or assist, any person to emigrate or depart out of Pakistan or to attempt to emigrate or depart out of Pakistan or to leave any place for the purpose of emigrating or departing out of Pakistan, or

(*c*) causes any person engaged or assisted by him, after grant of the licence referred to in section 25, to depart by sea, air or land out of Pakistan without registration of the particulars required by sub-section (2) of section 26, shall be punishable—

(*i*) for a first offence, with imprisonment for a term which may extend to three years and with fine which may extend to twenty thousand rupees ; and

(*ii*) for a second or subsequent offence, with imprisonment for a term which shall not be less than one year or more than three years and with fine.

(3) When in the course of any proceeding in connection with emigration in which an emigration agent is concerned, a breach of the provisions of this Ordinance or of the rules made under this Ordinance is committed, such person shall be liable to the punishment provided by sub-section (2), unless he shows that he was not responsible for and could not have prevented the commission of the breach.

(4) Whoever, in contravention of the provisions of section 20, recruits a citizen of Pakistan or holds an examination or issues an advertisement for such recruitment, and the editor, printer and publisher of a newspaper in which such advertisement is published, shall be liable to the punishment provided by sub-section (2).

(5) If any person commits an offence under this section, any police officer may arrest him without warrant.

33. **Certain amount recoverable as arrear of land revenue.**—The amount of any expenditure incurred by the Federal Government for the repatriation to Pakistan of a person who is convicted of an offence punishable under sub-section (1) of section 32, and the amount payable by any person in pursuance of an agreement or bond executed in pursuance of this Ordinance or the rules made thereunder, or as capitation fee under section 22, shall be recoverable from such person as an arrear of land revenue.

34. **Fraudulently inducing to emigrate.**—Whoever, by means of intoxication, coercion, fraud or wilful misrepresentation, causes or induces or attempts to cause or induce, any person to emigrate, or enter into any agreement to emigrate, or leave any place with a view to emigrating, shall be punishable—

(*a*) for a first offence, with imprisonment for a term which may extend to three years and with fine ; and

(*b*) for a second or subsequent offence, with imprisonment for a term which shall not be less than one year or more than three years and with fine.

35. **False representation of Government authority.**—Whoever falsely represents that any emigrants are required by the Government or are to be engaged on behalf of the Government shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

36. **Sanction to prosecutions.**—No prosecution shall be instituted for any offence under this Chapter except with the sanction of the Director-General or an officer authorised by him in this behalf:

Provided that no sanction shall be required when an offence has been committed in respect of an emigrant or an intended emigrant and the complaint is filed by such emigrant, or intended emigrant or, on behalf of such emigrant or intended emigrant, by the father, mother, husband, wife or guardian of such emigrant or intended emigrant or, if such emigrant or intended emigrant is a member of a joint Hindu family, by the manager of the family.

37. **Power for Customs Officer to search and detain for purposes of Ordinance.**—All the powers for the time being conferred by law on officers of customs with regard to the searching and detention of vessels or otherwise for the prevention of smuggling on board thereof, may be exercised, for the prevention of offences against this Ordinance by any such officer, or by a Protector of Emigrants, or a person appointed under section 7.

CHAPTER VII

VALIDATION, SAVINGS, ETC.

38. **Validation.**—Any power or function of the Federal Government or a Protector of Emigrants under the Emigration Act, 1922 (VII of 1922), or the rules made thereunder exercised or performed, before the commencement of this Ordinance by any officer subordinate to the Federal Government shall be deemed to have been validly exercised or performed.

39. **Saving.**—Nothing in this Ordinance shall be deemed to apply to the departure out of Pakistan of a person—

(*i*) who is not a citizen of Pakistan ;

(*ii*) who is in the service of Pakistan, or in the service of a local authority or a corporation owned or controlled by the Federal Government or a Provincial Government ; and is proceeding on duty or for employment with any international organization or for training or on leave, with the permission of the Federal Government :

Provided that the provisions of section 22 shall apply in the case of any such person who is proceeding for employment with any international organization ;

(*iii*) who is proceeding under a foreign scholarship or training scheme approved by the Federal Government ;

(*iv*) who is engaged as crew on board a foreign-going vessel in accordance with the provisions of the Merchant Shipping Act, 1923 (XXI of 1923);

(*v*) who is engaged as crew on board a foreign-going aircraft in accordance with the provisions of the Civil Aviation Ordinance, 1960 (XXXII of 1960), and the rules made thereunder ;

(*vi*) who is proceeding abroad for Hajj or Ziarat and is certified by the Federal Government or an officer authorised by it in this behalf to be so proceeding ; or

(*vii*) who is a dependant of a citizen of Pakistan who is already settled or employed in a foreign country.

40. **Repeal.**—The Emigration Act, 1922 (VII of 1922), is hereby repealed.

No. F. 24(1)/76-Pub.—The following Ordinance made by the President on the 12th January, 1976 is hereby published for general information :—

ORDINANCE No. III OF 1976

AN

ORDINANCE

to amend the Defence of Pakistan Ordinance, 1971

WHEREAS it is expedient to amend the Defence of Pakistan Ordinance, 1971 (XXX of 1971), for the purposes hereinafter appearing ;

AND WHEREAS the Proclamation of Emergency referred to in Article 280 of the Constitution of the Islamic Republic of Pakistan is in force ;

AND WHEREAS the National Assembly is not in session and the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 89 of the Constitution, the President is pleased to make and promulgate the following Ordinance : —

1. **Short title and commencement.**—(1) This Ordinance may be called the Defence of Pakistan (Amendment) Ordinance, 1976.

(2) It shall come into force at once.

2. **Amendment of section 8, Ordinance XXX of 1971.**—In the Defence of Pakistan Ordinance, 1971 (XXX of 1971), hereinafter referred to as the said Ordinance, in section 8, in sub-section (1),—

(*i*) after the word and comma " Pakistan, ", the words and commas " and a Provincial Government may, if so authorised by the Federal Government, for the whole or any part of its Province " shall be inserted ; and

(*ii*) the words " appointed by the Federal Government" shall be omitted.

3. **Substitution of section 9, Ordinance XXX of 1971.**—In the said Ordinance, for section 9 the following shall be substituted, namely :—

"9. **Jurisdiction of Special Tribunals.**—Where the Federal or a Provincial Government consistutes a Special Tribunal for any area, it shall, notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), have exclusive jurisdiction to try all offences under any rule made under section 3 specified in the notification constituting the Tribunal which are committed within the local limits of the jurisdiction of the Tribunal. ".

FAZAL ELAHI CHAUDHRY,
President.

Countersigned.

ZULFIKAR ALI BHUTTO,
Prime Minister.

ZIAUL HAQ CHANA,
Secretary.

CORRIGENDA

[*to the Gazette of Pakistan, Extraordinary, Part I, dated the* 21*st December*, 1975, *containing Ordinance, No. XXIV of* 1975].

Page 611 : In line 16 from the bottom, *for* " words " *read* " word ".

Page 613 : In line 13, *for* " polce-station, " *read* " police-station, ".

Page 614 : In line 11, *for* " made, or " *read* " made or ".

CORRIGENDA

[*to the Gazette of Pakistan, Extraordinary, Part I, dated the* 22*nd December*, 1975, *containing Ordinance No. XXV of* 1975].

Page 632 : In line 20, *for* " set up " *read* " set up, ".

Page 633 : In lines 36 and 37, *for* " per-quisities, " *read* " per-quisites, ".

CORRIGENDA

[*to the Gazette of Pakistan, Extraordinary, Part I, dated the* 23*rd December*, 1975, *containing Ordinances Nos. XXVI and XXVII of* 1975].

Page 639 : In the third column, against entry 5, in lines 5 and 6, *for* “ Ord dinance ” *read* “ Ordinance ”.

Page 639 : In the fourth column, against entry 5, in para 2, in sub-para (b), in line 1, *for* ‘ “ shall ” ’ *read* ‘ “ shall ”, ’.

Page 639 : In the second column, against entry 6, *for* “ XII ” *read* “ XXIII ”.

Page 640 : In the fourth column, in para 6, in line 3, *for* ‘ “ Junior Labour Court, ” ’ *read* ‘ “ “ Junior Labour Court, ” ” ’.

Page 641 : In the fourth column, in line 15, *for* “ effieciency ;” *read* “efficiency;”.

Page 641 : In the fourth column, in line 16, *for* “ piecerates ” *read* “ piece-rates ”.

Page 641 : In the fourth column, in lines 19 and 20, *for* “ lying ” and “ remunera-tions ” *read* “ laying ” and “ remuneration ” respectively.

Page 642 : In the fourth column, in line 35, *for* “ figures ” *read* “ figure ”.

Page 644 : In line 22, *for* “ licence, ” *read* “ licensee ”.

Page 644 : In line 30, *for* “ Benefit ” *read* “ Benefits ”.

Page 646 : In line 15, *for* “ Ordinance, ” *read* “ Ordinance ”.

Page 646 : In line 30, *for* “ part for the ” *read* “ part of the ”.

Page 648 : In line 10, *for* “ under ” *read* “ under the ”.

Page 650 : In line 14, *for* “ fifty five ” *read* “ fifty-five ”.

Page 653 : In line 10 from the bottom, *for* “ proceedings for ” *read* “ proceedings of insolvency against a person or proceedings for” .

Page 654 : In line 15, *for* “ any, officer ” *read* “ any officer ”.

Page 655 : In line 17, *for* “ emyloyers ” *read* “ employers ”.

Page 656 : In line 30, *for* “ (X 1972), ” *read* “ (X of 1972), ”.

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The Gazette of Pakistan

EXTRAORDINARY
PUBLISHED BY AUTHORITY

ISLAMABAD, TUESDAY, MARCH 16, 1976

PART I

Acts, Ordinances, President's Orders and Regulations

NATIONAL ASSEMBLY SECRETARIAT

Islamabad, the 16th March, 1976

The following Act of Parliament received the assent of the President on the 8th March, 1976, and is hereby published for general information :—

ACT No. VIII OF 1976

An Act further to amend the Pakistan Penal Code and the Code of Criminal Procedure, 1898

WHEREAS it is expedient further to amend the Pakistan Penal Code (Act XLV of 1860), and the Code of Criminal Procedure, 1898 (Act V of 1898), for the purposes hereinafter appearing ;

It is hereby enacted as follows :—

1. **Short title, extent and commencement.**—(1) This Act may be called the Criminal Law (Amendment) Act, 1976.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. **Amendment of section 489 E, Act XLV of 1860.**—In the Pakistan Penal Code (Act XLV of 1860), in section 489 E,—

(a) in sub-section (1), for the words "fine which may extend to one hundred rupees" the words and commas "imprisonment of either description for a term which may extend to one year, or with fine, or with both" shall be substituted ; and

(b) in sub-section (2), for the words "fine which may extend to two hundred rupees" the words and commas "imprisonment of either description for a term which may extend to one year, or with fine, or with both" shall be substituted.

3. **Amendment of Schedule II, Act V of 1898.**—In the Code of Criminal Procedure, 1898 (Act V of 1898), in Schedule II, after the entries relating to section 489 D, the following new entries shall be inserted, namely :—

1	2	3	4	5	6	7	8
"489 E	Making or using documents resembling currency notes or bank-notes.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 1 year, or fine, or both.	Magistrate of the first class."

M. A. HAQ,
Secretary.

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ISLAMABAD, MONDAY, MARCH 22, 1976

PART I

Acts, Ordinances, President's Orders and Regulations

NATIONAL ASSEMBLY SECRETARIAT

Islamabad, the 22nd March, 1976

The following Act of Parliament received the assent of the President on the 19th March, 1976, and is hereby published for general information :—

ACT No. IX OF 1976

An Act to amend the Centres of Excellence Act, 1974

WHEREAS it is expedient to amend the Centres of Excellence Act, 1974 (XXIV of 1974), for the purposes hereinafter appearing :

It is hereby enacted as follows :—

1. **Short title and commencement.**—(1) This Act may be called the Centres of Excellence (Amendment) Act, 1976.

(2) It shall come into force at once.

2. **Amendment of section 4, XXIV of 1974.**—In the Centres of Excellence Act, 1974 (XXIV of 1974), hereinafter referred to as the said Act, in section 4,—

(a) in clause (c), for the word and letters " and Ph. D. " the comma, letters and words ", Ph. D. and other " shall be substituted ; and

(b) in clause (f), after the words " Federal Government " at the end, the words " in consultation with the University in which the Centre is established " shall be added.

3. **Amendment of section 5, Act XXIV of 1974.**—In the said Act, in section 5,—

(a) in sub-section (1), for clauses (f) and (g) the following shall be substituted, namely :—

"(f) Two experts in the subject to be nominated by the Federal Government on the recommendation of the Commission.

Price : Ps. 9

[1291 Ex. Gaz.]

(g) One expert in the subject to be nominated by the Syndicate of the University.

(h) One expert in the subject to be nominated by the Academic Council of the University.

(i) One expert in the subject to be nominated by the National Education Council. ".

(j) Director of the Centre. "; and

(b) In sub-section (2) in clause (a), after the word " Centre " at the end, the words " with the concurrence of the Academic Council of the University in which the Centre is established " shall be added.

4. **Amendment of section 6, Act XXIV of 1974.**—In the said Act, in section 6, in sub-section (1), for the words " on the recommendation of the Commission " the words and comma " after consultation with the Commission and the Vice-Chancellor of the University in which the Centre concerned is established, " shall be substituted.

5. **Amendment of section 10, Act XXIV of 1974.**—In the said Act, in section 10, after the word " Act " at the end, the comma and words " , including rules to regulate the financial and administrative matters relating to a Centre " shall be added.

6. **Amendment of section 11, Act XXIV of 1974.**—In the said Act, in section 11, after the word " regulations ", the words " concerning academic matters " shall be inserted.

M. A. HAQ,
Secretary.

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The Gazette of Pakistan

EXTRAORDINARY
PUBLISHED BY AUTHORITY

ISLAMABAD, SATURDAY, APRIL 3, 1976

PART I

Acts, Ordinances, President's Orders and Regulations

NATIONAL ASSEMBLY SECRETARIAT

Islamabad, the 3rd April, 1976

The following Act of Parliament received the assent of the President on the 29th March, 1976 and is published for general information :—

ACT No. X OF 1976

An Act to make provision for Federal supervision of curricula, text-books and maintenance of standards of education.

WHEREAS it is necessary to provide for the building up of national cohesion by promoting social and cultural harmony, and designing curricula relevant to the nation's changing social and economic needs, compatible with the basic national ideology and providing massive shift from general education to more purposeful agro-technical education ; and to make provision for Federal supervision of curricula, text-books for various classes and maintenance of standards of education ;

It is hereby enacted as follows :—

1. **Short title, extent and commencement.**—(1) This Act may be called the Federal Supervision of Curricula, Text-books and Maintenance of Standards of Education Act, 1976.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. **Definitions.**—In this Act, unless there is anything repugnant in the subject or context,—

(a) "Competent Authority" means an authority appointed as such under section 3 ; and

(b) "institution" means a school, college or university and includes such other educational establishment as the Federal Government may, by notification in the official Gazette, specify for the purpose of this clause.

Price Ps. 9

[1411 Ex. Gaz.]

3. **Appointment and duties of Competent Authority.**—(1) The Federal Government may, by notification in the official Gazette, appoint one or more Competent Authorities for carrying out the purposes of this Act.

(2) The Competent Authority may, for carrying out the purposes of this Act,—

(a) prepare or cause to be prepared schemes of studies, curricula, manuscripts of text-books and schedules or strategy for their introduction in various classes of an institution in connection with the implementation of the education policy of the Federal Government ;

(b) approve manuscripts of text-books produced by other agencies before they are prescribed in various classes of an institution : and

(c) direct any person or agency in writing to delete, amend or withdraw any portion, or the whole, of the curriculum, text-book or reference material prescribed for any class of an institution within a period specified in such directive.

(3) Action on the directive of the Competent Authority under clause (c) of sub-section (2) shall be taken as soon as possible by the person or agency and an implementation report shall be submitted to the Competent Authority within such period as may be laid down in the directive.

4. **Penalty.**—If the person, to whom or the person responsible for the conduct of the affairs of any agency to which, a directive has been issued under clause (c) of sub-section (2) of section 3 fails to carry it out, he shall be punishable with imprisonment for a term which may extend to one year and shall also be guilty of gross misconduct ; and such agency may be superseded by order of the authority appointing or constituting it.

5. **Jurisdiction to try offences.**—No court shall take cognizance of an offence punishable under this Act except upon a complaint in writing made by the Competent Authority.

6. **Indemnity.**—No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

7. **Power to make rules.**—The Federal Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

MUHAMMAD ILYAS,
Additional Secretary.

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ISLAMABAD, FRIDAY, APRIL 16, 1976

PART I

Acts, Ordinances, President's Orders and Regulations

NATIONAL ASSEMBLY SECRETARIAT

Islamabad, the 16th April, 1976

The following Act of Parliament received the assent of the President on the 12th April, 1976, and is hereby published for general information :—

ACT No. XI OF 1976

An Act further to amend certain laws relating to industrial relations and welfare of workers

WHEREAS it is expedient further to amend certain laws relating to industrial relations and welfare of workers for the purposes hereinafter appearing ;

It is hereby enacted as follows :—

1. **Short title, extent and commencement.**—(1) This Act may be called the Labour Laws (Amendment) Act, 1976.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. **Amendment of certain laws.**—The laws specified in the Schedule shall be amended in the manner specified in the fourth column thereof.

3. **Transfer of pending cases.**—Any matter under section 25A of the Industrial Relations Ordinance, 1969 (XXIII of 1969), pending before a Junior Labour Court immediately before the sixteenth day of January, 1976, shall stand transferred to the Labour Court.

Price : Ps. 37

4. **Savings.**—Nothing in this Act shall be deemed to require the transfer to the Labour Appellate Tribunal of any appeal from a decision of a Junior Labour Court pending before a Labour Court immediately before the commencement of this Act and every such appeal shall be heard and disposed of by the Labour Court as if this Act had not come into force.

5. **Repeal.**—The Labour Laws (Amendment) Ordinance, 1975 (XXVI of 1975) is hereby repealed.

THE SCHEDULE

(*See* section 2)

S. No.	Number and year of Act or Ordinance	Short title	Amendment
1	2	3	4
1.	VIII of 1923.	The Workmen's Compensation Act, 1923.	Section 31 shall be re-numbered as sub-section (1) of that section and, after sub-section (1) re-numbered as aforesaid, the following new sub-section shall be added, namely :— "(2) Without prejudice to the provisions of sub-section (1), the Commissioner may recover in the prescribed manner any amount referred to therein by distress and sale of the moveable property belonging to the person by whom the amount is payable, or by attachment and sale of the immoveable property belonging to such person.".
2.	IX of 1936.	The payment of Wages Act, 1936.	1. In section 15, in sub-section (5), for clause (b) the following shall be substituted, namely :— " (*b*) if the authority is not a Magistrate, by the authority as an arrear of land-revenue, or, in the prescribed manner, by the authority by distress and sale of the moveable property belonging to the person by whom the amount is to be paid, or by attachment and sale of the immoveable property belonging to such person.". 2. In section 17, in sub-section (1) in clause (a), for the comma and word ", or " at the end a colon shall be substituted and thereafter the following proviso shall be added, namely :— " Provided that no appeal under this clause shall lie unless the memorandum of appeal is accompanied by a certificate of the authority to the effect that the appellant has deposited with the authority the amount payable under the direction appealed against, or ".
3.	West Pakistan Ordinance No. X of 1965.	The West Pakistan Employees Social Security Ordinance, 1965.	In section 2, in sub-section (8), in clause (f), for the words " five hundred " the words " one thousand" shall be substituted.
4.	XII of 1968.	The Companies Profits (Workers Participation) Act, 1968.	In section 3, in sub-section (1), in clause (b),— (*a*) for the word " pay " the words and commas " subject to adjustments, if any, pay " shall be substituted ; and

1	2	3	4
			(*b*) for the full stop at the end a colon shall be substituted and thereafter the following proviso shall be added, namely :— " Provided that, where the accounts have been audited by an auditor appointed under section 23B of the Industrial Relations Ordinance, 1969 (XXIII of 1969), the profits shall be assessed on the basis of such audit.".
5.	West Pakistan Ordinance No. VI of 1968.	The West Pakistan Industrial and Commercial Employment (Standing Orders) Ordinance, 1968.	1. In section 7, for sub-section (6) the following shall be substituted, namely :— "(6) No court other than a Labour Court established under the Industrial Relations Ordinance, 1969 (XXIII of 1969), shall try any offence under this Ordinance.". 2. In the Schedule,— (*a*) in Standing Order 10B, in clause (1), after the word " against ", the words " natural death and disability and " shall be inserted ; (*b*) in Standing Order 11A, after the word " shall ", the words " terminate the employment of more than fifty per cent of the workmen or " shall be inserted ; and (*c*) in Standing Order 15,— (*i*) in clause (4), after the word " misconduct ", the words " within one month of the date of such misconduct or of the date on which the alleged misconduct comes to the notice of the employer " shall be inserted ; and (*ii*) in clause (5), after the word " time ", the words, commas, figures and brackets " so, however, that the total period of such suspension shall not exceed four weeks except where the matter is pending before an Arbitrator, a Labour Court, Tribunal or Conciliator for the grant of permission under section 47 of the Industrial Relations Ordinance, 1969 (XXIII of 1969)," shall be inserted.
6.	XXIII of 1969.	The Industrial Relations Ordinance, 1969.	1. In section 2, for clause (xiva) the following shall be substituted, namely :— "(xiva) " inspector " means an inspector appointed under this Act.". 2. In section 3, in clause (a), for the semi-colon at the end, a colon shall be substituted, and thereafter the following proviso shall be added, namely :— " Provided that no worker shall be entitled to be a member of more than one trade union at any one time ; ".

3. In section 6, in clause (a),—

(*a*) in sub-section (iva), after word " relates " at the end, the words "alongwith a statement of the total number of workers employed therein " shall be added ; and

(*b*) after sub-clause (iva), the following new sub-clause shall be added, namely :—

" (ivb) the names and addresses of the registered trade unions in the establishment, group of establishments or industry, as the case may be, to which the union relates; ".

4. In section 7, for sub-section (2) the following shall be substituted, namely :—

" (2) Without prejudice to the provisions of sub-section (1), a trade union of workmen shall not be entitled to registration under the Ordinance.

(a) unless all its members are workmen actually engaged or employed in the industry with which the trade union is connected ; and

(*b*) where there are two or more registered trade unions in the establishment, group of establishments or industry with which the trade union is connected, unless it has as its members not less than one-fifth of the total number of workmen employed in such establishment, group of establishments or industry, as the case may be.".

5. In section 22A,—

(*a*) in sub-sections (9), (10) and (10a), the words " Junior Labour Court or " shall be omitted ; and

(*b*) in sub-section (12),—

(*i*) the words " a Junior Labour Court or " shall be omitted ; and

(*ii*) in the proviso, the words " Junior Labour Court and " shall be omitted.

6. In section 22B, in sub-section (3), the words " a Junior Labour Court or " and the words and comma " Junior Labour Court, " shall be omitted.

7. In section 23B,—

(*a*) in sub-section (1), for the word " twenty " the word " fifty " shall be substituted ;

(*b*) in sub-section (6),—

(*i*) in clause (iii), the word " and " at the end shall be omitted ;

(*ii*) in clause (iv), for the full stop at the end a semi-colon shall be substituted ; and

1 2 3 4

(*iii*) after clause (iv) amended as aforesaid, the following new clauses shall be added, namely :—

"(*v*) regulation of daily working hours and breaks ;

(*vi*) preparation of leave schedule. ; and

(*vii*) matters relating to the order and conduct of workers within the factory." ; and

(*c*) in sub-section (14), for clause (a) the following shall be substituted, namely :—

"(*a*) " factory " has the same meaning as in the Factories Act, 1934 (XXV of 1934) ; ".

8. After section 23B amended as aforesaid, the following new sections shall be inserted, namely :—

" 23C. **Joint management board.**—(1) Every company which owns or manages a factory, and in every factory which is not so owned or managed, and which employs fifty persons or more, the management shall, in the prescribed manner set up a joint management board in which the workers' participation shall be to the extent of thirty per cent.

(2) The employer's representatives on the joint management board shall be from amongst the Directors or senior executives and the workers' representatives shall be workmen employed in the factory.

(3) The joint management board shall look after the following matters, namely :—

(*a*) improvement in production, productivity and efficiency ;

(*b*) fixation of job and piece-rates ;

(*c*) planned regrouping or transfer of the workers ;

(*d*) laying down the principles of remuneration and introduction of new remuneration methods ; and

(*e*) provision of minimum facilities for such of the workers employed through contractors as are not covered by the laws relating to welfare of workers.

(4) The joint management board may call for reasonable information about the working of the company or factory from its management and the management shall supply the information called for.

(5) The joint management board shall meet at such intervals as may be prescribed.

1	2	3	4

(6) The workers' representative shall hold office for such period as may be prescribed.

(7) In this section,—

(a) "company" has the same meaning as in the Companies Act, 1913 (VII of 1913);

(b) "factory" and "management" have the same meaning as in section 23B.

23D. **Inspector.**—(1) The inspectors appointed under section 10 of the Factories Act, 1934 (XXV of 1934), and such other persons, not being Conciliators appointed under this Ordinance, as the Provincial Government may, by notification in the official Gazette appoint, shall be inspectors for insuring compliance with the provisions of section 23B and section 23C within the local limits assigned to each.

(2) The inspector may—

(i) at all reasonable hours enter on any premises and make such examination of any register and document relating to the provisions of section 23B and section 23C and take on the spot or otherwise such evidence of any person, and exercise such other powers of inspection, as he may deem necessary for discharging his duty;

(ii) call for such information from the management as he may deem necessary for the discharge of his functions and the management shall provide the information called for within such period as may be specified by him; and

(iii) make a report in writing to the Registrar having jurisdiction of any offence punishable under section 23E.

(3) Every inspector shall be deemed to be a public servant within the meaning of section 21 of the Pakistan Penal Code (XLV of 1860).

23E. **Penalty for obstructing inspector.**—Whoever wilfully obstructs an inspector in the exercise of any power under section 23D, or fails to produce on demand by an inspector any register or other document in his custody relating to the provisions of section 23B and section 23C or the rules, or conceals or prevents any worker in a factory from appearing before or being examined by an inspector, shall be punishable with fine which may extend to five hundred rupees.

1	2	3	4

23F. **Penalty for contravening section 23B or 23C, etc.**—(1) Whoever contravenes the provisions of section 23B or section 23C shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to two thousand rupees, or with both.

(2) No court shall take cognizance of any offence punishable under sub-section (1) except upon a complaint in writing made by the Registrar.

9. In section 25A,—

(*a*) for the words " Junior Labour Court ", wherever occurring, the words " Labour Court " shall be substituted ;

(*b*) for the words " trade union ", wherever occurring, the words " collective bargaining agent " shall be substituted ; and

(*c*) after sub-section (7), the following new sub-section shall be added, namely :—

"(8) If a decision under sub-section (4) or an order under sub-section (5) given by the labour court or a decision of the Tribunal in an appeal against such a decision or order is not given effect to or complied with within a week or within the period specified in such order or decision, the defaulter shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees,

(9) No person shall be prosecuted under sub-section (8) except on a complaint in writing :—

(a) by the workman if the order or decision in his favour is not implemented within the period specified therein ; or

(b) by the Labour Court or Tribunal, if an order or decision thereof is not complied with.

(10) For the purposes of this section, workers having common grievance arising out of a common cause of action may make a joint application to the Labour Court. ".

10. In section 36,—

(*a*) in sub-section (3), after the word " Ordinance ", the words, brackets, commas and figures " or the West Pakistan Industrial and Commercial Employment (Standing Orders) Ordinance, 1968 (W.P. Ordinance VI of 1968) " shall be inserted ;

(*b*) after sub-section (4), the following new sub-section shall be added, namely :—

> " (5) If the parties to a case, at any time before a final order is passed by the Labour Court, satisfy the Labour Court that the matter has been resolved by them amicably and that there are sufficient grounds for withdrawing the case, it may allow such withdrawal. ".

11. Sections 36A, 36B, 36C, 36D, 36E, and 36F shall be omitted.

12. In section 37,—

(*a*) in sub-section (3), after the words, brackets and figures " sub-section (1) ", the words, figures and letter " or a decision given under section 25A " shall be inserted ; and

(*b*) in sub-section (4), after the word " than" the words, figure, letter and comma " decisions given under section 25A, " shall be inserted.

13. In section 38,—

(*a*) in sub-section (3), after the word " award ", the words, figure and letter " or decision given under section 25A " shall be inserted ; and

(*b*) after sub-section (6), the following new sub-sections shall be added, namely :—

> " (7) A Tribunal may, on its own motion, or on the application of a party, transfer any application or proceeding from a Labour Court within its jurisdiction to any other such Labour Court.
>
> (8) Notwithstanding anything contained in sub-section (3), if in an appeal preferred to if against the order of a Labour Court directing the re-instatement of a workman, the Tribunal makes an order staying the operation of the order of the Labour Court, the Tribunal shall decide such appeal within twenty days of its being preferred :
>
> Provided that, if such appeal is not decided within the period aforesaid, the order of the Tribunal shall stand vacated on the expiration of that period .".

14. In section 39, in sub-section (1),—

(*i*) after the word " proceedings ", the words "or otherwise between the employer and the collective bargaining agent " shall be inserted ; and

1	2	3	4
			(*ii*) in clause (d), for the full stop at the end a colon shall be substituted and thereafter the following proviso shall be added, namely :— " Provided that, where a collective bargaining agent or a trade union performing the functions of a collective bargaining agent under section 52 exists, the employer shall not enter into a settlement with any other trade union, and any contravention of this provision shall be deemed to be an unfair labour practice under section 15 .".

MOHAMMAD ILYAS,
Additional Secretary.

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 16th April, 1976

No. F. 24 (1)|76-Pub.—The following Ordinance made by the President on the 14th April, 1976 is hereby published for general information :—

ORDINANCE No. XVII OF 1976

AN

ORDINANCE

to amend the Abandoned Properties (Taking Over and Management) Act, 1975

WHEREAS it is expedient to amend the Abandoned Properties (Taking Over and Management) Act, 1975 (XX of 1975), for the purposes hereinafter appearing ;

AND WHEREAS the Proclamation of Emergency referred to in Article 280 of the Constitution is still in force ;

AND WHEREAS the National Assembly is not in session and the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the Abandoned Properties (Taking Over and Management) (Amendment) Ordinance, 1976.

(2) It shall come into force at once and shall be deemed to have taken effect on the twelfth day of February, 1975.

2. **Amendment of long title and preamble, Act XX of 1975.**—In the Abandoned Properties (Taking Over and Management) Act, 1975 (XX of 1975), hereinafter referred to as the said Act, in the long title and preamble, the words "taking over and" shall be omitted.

3. **Amendment of section 1, Act XX of 1975.**—In the said Act, in section 1, in sub-section (1), the words "Taking Over and" shall be omitted.

4. **Amendment of section 2, Act XX of 1975.**—In the said Act, in section 2, for clause (f) the following shall be substituted, namely :—

> "(f) 'specified person' means a person who, at any time before the sixteenth day of December, 1971, was a citizen of Pakistan domiciled in the territories which before the said day constituted the Province of East Pakistan and who, on or after that day, has ceased or ceases to be a citizen of Pakistan, and includes a company registered in the said territories the registered office of which has not been shifted in pursuance of the Companies (shifting of Registered Officer) Ordinance, 1972 (V of 1972)".

5. **Amendment of section 21, Act XX of 1975.**—In the said Act, in section 21, after the word "amount" occurring for the second time, the commas and words ", alongwith interest thereon at such rate as the Federal Government may, by notification in the official Gazette, specify," shall be inserted.

6. **Amendment of section 29, Act XX of 1975.**—In the said Act, in section 29, after the word "administration", the commas and words ", or disposal in the public interest, by way of transfer or otherwise," shall be inserted.

FAZAL ELAHI CHAUDHRY,
President.

Countersigned
ZULFIKAR ALI BHUTTO,
Prime Minister.

ABDUL HAYEE KURESHI,
Secretary.

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ISLAMABAD, MONDAY, APRIL 19, 1976

PART I

Acts, Ordinances, President's Orders and Regulations

NATIONAL ASSEMBLY SECRETARIAT

Islamabad, the 19th April, 1976

The following Acts of Parliament received the assent of the President on the 15th April, 1976, and are hereby published for general information :—

ACT No. XII OF 1976

An Act further to amend the Baluchistan Land Revenue Act, 1967

WHEREAS it is expedient further to amend the Baluchistan Land Revenue Act, 1967 (W. P. Act No. XVII of 1967), for the purposes hereinafter appearing ;

AND WHEREAS, by virtue of the declaration made in the Proclamation issued by the President under Article 234 of the Constitution on the 31st December, 1975, in respect of the Province of Baluchistan, the powers of the Provincial Assembly of that Province are exercisable by, or under the authority of, Parliament ;

It is hereby enacted as follows :—

1. **Short title, extent and commencement.**—(1) This Act may be called the Baluchistan Land Revenue (Amendment) Act, 1976.

(2) It extends to the whole of the Province of Baluchistan.

(3) It shall come into force at once and shall be deemed to have taken effect on the tenth day of November, 1975.

Price : Ps. 62

[1610 Ex. Gaz.]

2. **Amendment of section 4, W. P. Act No. XVII of 1967.**—In the Baluchistan Land Revenue Act, 1967 (W. P. Act No. XVII of 1967), hereinafter referred to as the said Act, in section 4,—

(i) after clause (10), the following new clause shall be inserted, namely :—

"(10-A) 'irrigated land' means land irrigated by a canal, tube-well, well, *Jhalar, Karez,* spring or by any other artificial means of irrigation ;" ; and

(ii) after clause (27), the following new clause shall be inserted, namely :—

"(27-A) 'unirrigated land' means land other than irrigated land, and includes land fed by rain, flood, hill torrents, uncultivable and waste land ;".

3. **Insertion of new section 54A, W. P. Act No. XVII of 1967.**—In the said Act, after section 54, the following new section shall be inserted, namely :—

"54A. *Power to call for information.*—(1) The Board of Revenue may, by notification, require a land-owner or a class of land-owners to furnish such information as to the extent of his or their ownership of land, whether such land is situated wholly within the Province or partly within the Province and partly outside the Province, in such form and manner, within such time and to such person or authority as may be specified in the notification.

(2) Whoever fails, without reasonable cause, to furnish the information required under sub-section (1) or furnishes information which he knows, or has reason to believe, to be false or omits to give any information material for the purpose for which it is required, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

(3) No court shall take cognizance of any offence punishable under this section except on a complaint in writing made by a Revenue Officer especially or generally empowered in this behalf by the Board of Revenue.".

4. **Amendment of section 56 (W. P.) Act No. XVII of 1967.**—In the said Act, in section 56, clause (f) shall be omitted.

5. **Insertion of new section 56A W. P. Act No. XVII of 1967.**—In the said Act, after section 56, the following new section shall be inserted, namely :—

"56A. *Exemption of land revenue.*—Notwithstanding anything to the contrary contained in this Act, from Rabi 1975-76, no land-owner shall be liable to pay land revenue, or any rate or cess chargeable under the provisions of this Act, if he owns—

(a) irrigated land not exceeding twelve acres ;

(b) unirrigated land not exceeding twenty-five acres ; or

(c) irrigated and unirrigated land the aggregate area of which does not exceed twelve acres of irrigated land".

6. **Insertion of new sections 70A, 70B, 70C and 70E, W. P. Act No. XVII of 1967.**—In the said Act, after section 70, the following new sections shall be inserted, namely :—

"70A. *Increase in land revenue.*—(1) Notwithstanding anything to the contrary contained in this Act, from Rabi 1975-76, every land-owner of the categories mentioned below shall, in addition to the land-revenue assessed under the provisions of section 57 and section 70, be liable to pay land revenue at the enhanced rate mentioned against each category :—

(*a*) a land-owner owning—

(*i*) irrigated land exceeding twenty-five acres but not exceeding fifty acres ; or	50 per cent increase on land revenue determined under the provisions of section 57 and section 70.
(*ii*) unirrigated land exceeding one hundred acres ; or	
(*iii*) irrigated and unirrigated land the aggregate area of which does not exceed fifty acres of irrigated land.	

(*b*) a land-owner owning—

(*i*) irrigated land exceeding fifty acres ; or	100 per cent increase on land-revenue determined under the provisions of section 57 and section 70.
(*ii*) unirrigated land exceeding one hundred acres ; or	
(*iii*) irrigated and unirrigated land the aggregate area of which exceeds fifty acres of irrigated land.	

(2) A land-owner owning irrigated land exceeding twelve acres but not exceeding twenty-five acres or unirrigated land exceeding twenty-five acres but not exceeding fifty acres or irrigated and unirrigated land the aggregate area of which does not exceed twenty-five acres of irrigated land shall continue to pay the land-revenue in accordance with the assessment for the time being in force.

70B. *Determination of land ownership.*—For the purposes of sections 56A and 70A—

(a) one acre of irrigated land shall be reckoned as equivalent to two acres of unirrigated land, provided that in calculating the aggregate area of a land-owner the conversion is made from unirrigated to irrigated land ;

(b) land owned by a land-owner shall include all land owned by him, whether such land is situated wholly within the Province or partly within and partly outside the Province, except the following namely :—

(i) land described in clauses (b), (c) and (d) of section 56 ; and

(ii) share in shamlat of a village where the total area of such shamlat does not exceed 25 acres ; and

(c) "land-owner" shall include a person—

(i) who is an allottee or a grantee of any land under any scheme of the Government, under which such allotment or grant is to mature into ownership;

(ii) who has mortgaged his land, or any portion thereof, with possession; or

(iii) who has permanent rights and interest in land.

70C. *Information about increase in the extent of ownership.*—(1) A person who, after the tenth day of November, 1975, acquires land or increases the extent of his ownership of land, and by such acquisition owns land in more than one patwar circle, whether such land is situated within the Province or partly within and partly outside the Province, shall inform such authority within such time and in such manner and form as the Board of Revenue may by a notification specify in this behalf.

(2) A land-owner who fails without reasonable cause to comply with the provisions of sub-section (1) or the rules or order made thereunder or wilfully furnishes incomplete or false information shall be deemed to have committed an offence punishable under sub-section (2) of section 54A.

70D. *Application by land-owner entitled to exemption, etc.*—(1) Any land-owner entitled to exemption under section 56 or section 56A from the payment of land-revenue or to reduction in land-revenue chargeable under section 70A, who has not been granted such exemption or reduction, or any land-owner aggrieved by the categorization of his land under section 70A, may at any time, make an application, in such form and manner as may be specified by the Board of Revenue to the Assistant Collector of the area in which his land or any part thereof is situated.

(2) On receipt of such application, the Assistant Collector shall cause a notice of the application to be served on the person on whom the liability to pay the land-revenue may devolve as a result of the transfer of land and, after holding such inquiry as he considers necessary, shall pass orders stating his reasons therefor.

(3) Without prejudice to the provisions of sub-section (1) and (2), the Assistant Collector shall have the power to hold an inquiry and pass appropriate orders if on receipt of any information or otherwise he is of opinion that any land-owner who is liable to pay land-revenue is not paying such land-revenue or paying less than the amount of the land-revenue which he is liable to pay:

Provided that, before passing a final order, he shall afford the person likely to be affected by such order an opportunity of being heard.

(4) In exercising his powers under sub-section (2) or sub-section (3), the Assistant Collector shall—

(a) not question the correctness or validity of a registered deed, or any mutation sanctioned in accordance with law, relating to transfer of land ; and

(b) follow, subject to the other provisions of this section, such procedure as may be laid down by the Board of Revenue by notified instructions in this behalf.

(5) Any person aggrieved by an order passed under sub-section (2) or sub-section (3) may prefer an appeal as provided in Chapter XIII.

70-E. *Exemption or assessment of land-revenue.*—Notwithstanding anything to the contrary contained in this Act, Government may, at any time, by notification, prescribe the principle or the method or the procedure by which, and the manner in which, exemption under section 56A or assessment under section 70A shall be determined or announced. ".

7. **Repeal.**—The West Pakistan Land Revenue (Baluchistan Amendment) Ordinance, 1976 (Baluchistan Ordinance No. I of 1976), is hereby repealed.

ACT No. XIII OF 1976

An Act further to amend the Code of Criminal Procedure, 1898

WHEREAS it is expedient further to amend the Code of Criminal Procedure, 1898 (Act V of 1898), for the purposes hereinafter appearing ;

It is hereby enacted as follows :—

1. **Short title, extent and commencement.**—(1) This Act may be called the Code of Criminal Procedure (Amendment) Act, 1976.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. **Amendment of section 491, Act V of 1898.**—In the Code of Criminal Procedure, 1898 (Act V of 1898), hereinafter referred to as the Code, in section 491, in sub-section (3), after the words, comma and figure " Security of Pakistan Act, 1952 " at the end, the comma and words " , or any other law providing for preventive detention " shall be added.

3. **Amendment of section 497, Act V of 1898.**—In the Code, in section 497, in sub-section (1), in the second proviso, the comma, words and figure " , without prejudice to the provisions of section 498 " shall be omitted.

4. **Insertion of new section 498A, Act V of 1898.**—In the Code, after section 498, the following new section shall be inserted, namely :—

" 498A. *No bail to be granted to a person not in custody, in court or against whom no case is registered, etc.*—Nothing in section 497 or section 498 shall be deemed to require or authorise a Court to release on bail, or to direct to be admitted to bail, any person who is not in custody or is not present in court or against whom no case stands registered for the time being and an order for the release of a person on bail, or a direction that a person be admitted to bail, shall be effective only in respect of the case that so stands registered against him and is specified in the order or direction.".

5. **Repeal.**—The Code of Criminal Procedure (Amendment) Ordinance, 1975 (XXX of 1975), is hereby repealed.

ACT No. XIV of 1976

An Act to repeal and re-enact the law relating to old-age benefits for the persons employed in industrial, commercial and other organisations

WHEREAS it is expedient to repeal and re-enact the law relating to old-age benefits for the persons employed in industrial, commercial and other organisations and matters connected herewith ;

It is hereby enacted as follows :—

CHAPTER I

PRELIMINARY

1. **Short title, extent, commencement and application.**—(1) This Act may be called the Employees' Old-Age Benefits Act, 1976.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

(4) It applies to every industry or establishment wherein ten or more persons are employed, directly or through any other person, whether on behalf of himself or any other person, or were so employed on any day during the preceding twelve months, and shall continue to apply to every such industry or establishment even if the number of persons employed therein is, at any time after this Act becomes applicable to it, reduced to less than ten.

2. **Definitions.**—In this Act, unless the context otherwise requires,—

(a) "Board" means the Board of Trustees constituted under section 7 ;

(b) "contribution" means the sum of money payable to the Institution by the employer in respect of an insured person under the provisions of this Act ;

(c) "employer" means owner of an establishment or industry and includes an agent, manager or representative of the owner and, where any work or undertaking is carried on by or on behalf of the State, the contractor or licensee executing or carrying on such work or undertaking ;

(d) "employment injury" means a personal injury to an insured person caused by an accident, or by such occupational disease as may be specified in the regulations, arising out of and in the course of his employment ;

(e) "establishment" means an organisation, whether industrial, commercial or otherwise ;

(f) "fund" mean the Employees' Old-Age Benefits Fund set up under section 17;

(g) "industry" means any business, trade, undertaking, manufacture or calling of employers, and includes any calling, service, employment, handicraft, industrial occupation or avocation of workmen;

(h) "Institution" means the Employees' Old-Age Benefits Institution established or nominated under section 4;

(i) "insured person" means a person who is or was in insurable employment;

(j) "insurable employment" means employment of a person under a contract of service or apprenticeship, whether written or oral, express or implied and in respect of which contributions are payable under this Act;

(k) "invalidity" means a condition, other than that caused by an employment injury, as a result of which an insured person is permanently incapacitated to such an extent as to be unable to earn from his usual or other occupation more than one-third of the normal rates of earning in his usual occupation;

(l) "member" means a member of the Board;

(m) "prescribed" means prescribed by rules;

(n) "regulations" means regulations made by the Board;

(o) "rules" means rules made under this Act;

(p) "wages" means wages as defined in clause (vi) of section 2 of the Payment of Wages Act, 1936 (Act No. IV of 1936); and

(q) "year" with respect to contributions payable means a total of 312 days for which contributions are payable.

CHAPTER II

INSURED PERSONS

3. **Compulsory insurance.**—All persons employed in an industry or establishment under a contract of service or apprenticeship, whether written or oral, express or implied, shall be insured in the manner provided by or under this Act.

4. **Administration.**—(1) As soon as may be, after the commencement of this Act, the Federal Government shall establish or nominate by notification an Institution to be called the Employees' Old-Age Benefits Institution.

(2) The Institution shall be a body corporate having perpetual succession and a common seal, with powers, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and shall by the aforesaid name sue or be sued.

5. **Nomination of a body corporate pending establishment of an Institution.**—(1) Notwithstanding anything contained in section 4, the Federal Government may, pending the establishment of an Institution, by notification in the official Gazette, nominate a body corporate to exercise and perform all the

powers and functions of the Institution under this Act and appoint the head of such body corporate, by whatever name called, to be the head of the Institution.

(2) The nomination of a body corporate under sub-section (1) shall be subject to such terms and conditions as the Federal Government may, from time to time, determine.

6. **Management.**—(1) The general direction and superintendence of the affairs of the Institution shall vest in a Board which may, with the assistance of the Head of the Institution, exercise all powers and do all acts and things which may be exercised or done by the Institution.

(2) In discharging its functions, the Institution shall be guided by such instructions on questions of policy as may be given to it from time to time, by the Federal Government, which shall be the sole judge as to whether any instructions are on a question of policy or not.

7. **Board of Trustees.**—(1) The Board of Trustees shall consist of the following members to be appointed by the Federal Government, by notification, namely :—

(a) the Secretary or Additional Secretary in the Labour Division, who shall also be the Chairman of the Board of Trustees ;

(b) four persons to represent the Federal Government, one each from the Ministries of Finance, Commerce, Industries and Labour ;

(c) four persons to represent the Provincial Governments, one to be nominated by each of the Provincial Governments ;

(d) four persons to represent employers ;

(e) four persons to represent insured persons ; and

(f) two persons to represent the Institution.

(2) Members to be appointed under clauses (d) and (e) of sub-section (1) shall respectively be chosen from a list of names submitted in the prescribed manner by the organisations of employers and employees recognised by the Federal Government for that purpose :

Provided that, pending the making of rules in this behalf, the first members to be so appointed shall be chosen from such persons as the Federal Government may deem fit.

8. **Powers and functions of the Board of Trustees.**—In addition to the powers conferred on, and the functions entrusted to it by the other provisions of this Act or by the rules, the Board shall have powers—

(a) to approve the budget estimates, the audited accounts and the annual report of the Institution for submission to the Federal Government in accordance with the provisions of this Act ; and

(b) to call for any information or direct any research to be made for the furtherance of the objects of the Act.

CHAPTER III

CONTRIBUTIONS

9. **Rates and assessment.**—(1) On and from the first day of July, 1976, contributions shall be payable every month by the employer to the Institution in respect of every person in his insurable employment, at the rate of five per cent of his wages in the prescribed manner.

(2) Where an insured person does not receive any wages from the employer for any period, the Institution shall, subject to regulations, determine the amount of wages with reference to which the contributions shall be computed.

(3) Notwithstanding any agreement to the contrary, the employer shall not deduct from the wages of an insured person or otherwise recover from him any portion of contribution.

(4) Where the mode of payment of remuneration, whether in cash or in kind, makes it difficult to determine the amount of wages for computing the contribution, the Institution may, subject to regulations, determine such wages.

10. **Records and returns by employers.**—Every employer shall keep such records and shall submit to the Institution such returns, at such times, in such form and containing such particulars relating to persons employed by him, as may be provided in regulations.

11. **Registration of establishments, etc.**—(1) Every employer shall, before the expiration of thirty days from the day on which this Act becomes applicable to the industry or establishment in respect of which he is the employer, communicate to the Institution the name and other prescribed particulars of the industry or establishment and of every insured person employed in the industry or establishment.

(2) Every insured person may also communicate his name and other prescribed particulars to the Institution.

(3) On receipt of a communication under sub-section (1) or sub-section (2), the Institution shall register the name of the industry or establishment or the insured person in such manner, and issue to the insured person a registration card in such form, as may be prescribed.

12. **Officials of Institution to check employer's books.**—(1) Any official of the Institution, duly authorised by a certificate in a form specified in the regulations, may, for the purpose of inquiring into the correctness of any of the particulars stated in the records or returns referred to in section 10 or for the purpose of ascertaining whether any of the provisions of this Act have been compiled with—

(a) require an employer to furnish to him such information as he may consider necessary; or

(b) at any reasonable time, enter any establishment or other premises occupied by such employer and require any person found in charge thereof to produce and allow him to examine such accounts books and other documents relating to the employment of persons and payment of wages, or to furnish to him such information, as he may consider necessary; or

(c) examine, with respect to any matter relevant to the purposes aforesaid, the employer, his agent or any person found in such establishment or other premises, or any other person whom the said official has reasonable cause to believe to be or to have been an insured person.

(2) The official referred to in sub-section (1) shall be bound to secrecy as regards all matters with which he becomes acquainted in the performance of his duties and which do not relate to matters provided for in this Act.

(3) If an employer fails to maintain records or to submit returns as required by the regulations, or otherwise fails to comply with the provisions of sub-section (1) and thereby makes it difficult to ascertain the identity of persons required to be insured or the amount of contribution payable, the contribution shall be assessed on the basis of such evidence as the Institution may find satisfactory for this purpose.

13. **Increase of unpaid contribution and recovery of contribution, etc., as arrears of land revenue.**—(1) If any employer fails to pay, on the due date the contribution payable by him under sub-section (1) of section 9, the amount so payable by him shall be increased by such percentage or amount as may be prescribed :

Provided that in no case shall such increase exceed fifty per cent of the amount due.

(2) Without prejudice to any other remedy, the amount of the contribution due, together with the increase provided for under sub-section (1), may be recovered as an arrear of land revenue.

14. **Safeguard of insured person's right in default of payment of contributions by employer.**—In the event of default in payment of contributions by the employer in respect of an insured person, such insured person shall have and enjoy the same rights under this Act as if no such default had occurred.

15. **Refund of contributions paid erroneously.**—An employer shall be entitled to the refund of any contribution paid to the Institution under erroneous belief that it was payable under the provisions of this Act, and shall be entitled to the refund of excess amount of the contribution where such contribution had been paid at a higher rate than the rate prescribed :

Provided that no contribution or excess amount of any contribution shall be refunded unless an application for such refund is made within six months of the date on which the contribution was paid.

16. **Extinguishment of claims to contributions.**—Any claims of the Institution for unpaid contributions shall be extinguished in the manner provided in the regulations.

CHAPTER IV

FINANCE AND AUDIT

17. **Employees' Old-Age Benefits Fund.**—(1) The Institution shall have its own fund, to be called the Employees' Old-Age Benefits Fund and may incur out of the Fund such expenditure as may be necessary for the purposes of this Act.

(2) All contributions paid under this Act and all other moneys received by or on behalf of the Institution shall be paid into the Fund.

(3) The Institution shall derive its revenues from the following sources—

(a) contributions payable under this Act and the rules;

(b) all other payments made by the employers under this Act and the regulations;

(c) income from investment of the moneys of the Institution; and

(d) donations and bequests for the purposes of this Act.

(4) The assets of the Institution shall be utilised solely for the purposes of this Act.

(5) The moneys of the Institution shall be deposited in such banks as may be approved by the Board for the purpose.

18. **Investments and loans.**—(1) Subject to rules, the Institution may, from time to time, invest any moneys which are not immediately required for expenses under this Act, and may reinvest or realise such investment.

(2) The Institution may, with the previous sanction of the Federal Government and on such terms as it may specify, raise loans and take measures for discharging such loans.

19. **Budget, accounts and audit.**—(1) The Institution shall draw up annually a budget showing the anticipated receipts and expenditure during the following year and shall submit it to the Board for the approval of the Federal Government.

(2) The Institution shall maintain accounts of its income and expenditure in such form and manner as may be prescribed.

(3) The books of account of the Institution shall be balanced on the thirtieth of June each year and its accounts shall be audited by auditors approved by the Federal Government at such time and in such manner as may be prescribed.

(4) The auditors shall at all reasonable times have access to the books of accounts and other documents of the Institution and may, for the purposes of the audit, call for such explanation and information as they may require and may examine any principal or other officer of the Institution.

(5) The auditors shall forward to the Federal Government their report together with an audited copy of the accounts of the Institution.

20. **Annual Report.**—The Institution shall submit to the Federal Government an annual report of its work and activities.

21. **Valuation of assets and liabilities.**—The Institution shall, at intervals of not more than five years, have an actuarial valuation made in the prescribed manner of its assets and liabilities:

Provided that the Federal Government may direct a valuation to be made at such other times as it may consider necessary.

CHAPTER V

BENEFITS

22. **Old-age allowance.**—(1) An insured person shall be entitled to old-age allowance at the rate of seventy-five rupees per month provided that—

(a) he is over fifty-five years of age or, in the case of a woman, fifty years ;

(b) he has retired from insurable employment ; and

(c) contributions in respect of him were payable for not less than fifteen years :

Provided that the old-age allowance shall be increased by five rupees per month for every additional year of insurable employment beyond the age specified in clause (a).

(2) If, on the 1st day of July, 1976, or on any day thereafter on which this Act becomes applicable to an industry or establishment, an insured person is over forty years of age, or over thirty-five in case of a woman, clause (c) of sub-section (1) shall have effect as if for the word "fifteen" therein the word "seven" were substituted.

(3) Subject to regulations, the old-age allowance shall commence as from the month following that in which the insured person satisfies the condition for entitlement thereto, provided that no allowance shall be payable retroactively for more than six months preceding the month in which an application for old-age allowance is submitted.

(4) Insurable employment of a person for the purposes of this Act shall commence on the date from which the first contribution in respect of him becomes payable.

(5) The old-age allowance payable to an insured person shall be terminated at the end of the month in which the death of such person occurs.

(6) The old-age allowance may, at the request of an insured person, be commuted on such grounds and in such manner as may be specified in the regulations.

23. **Invalidity allowance.**—(1) An insured person who sustains invalidity shall be entitled to an invalidity allowance at the rate of seventy-five rupees per month, provided that—

(a) contributions in respect of him were payable for not less than fifteen years ; or

(b) contributions in respect of him were payable for not less than five years since his entry into insurable employment and for not less than three years during the period of five years preceding the month in which he sustains invalidity ; and

(c) in either case, he is under fifty-five years of age, or fifty years in the case of a woman.

(2) Subject to regulations, the invalidity allowance shall be payable from the month following that in which the insured person satisfies the conditions for entitlement thereto :

Provided that the invalidity allowance shall not be payable retroactively for more than six months preceding the month in which an application for the invalidity allowance is submitted.

(3) The invalidity allowance shall be payable so long as invalidity continues :

Provided that an insured person who has been in receipt of the invalidity allowance for not less than five continuous years or attains the age specified in clause (a) of sub-section (1) of section 22 shall be entitled to the invalidity allowance for life.

CHAPTER VI

PROVISIONS COMMON TO ALL BENEFITS

24. **Calculation of qualifying contribution periods.**—In calculating the contribution periods for entitlement to a benefit under this Act, periods in respect of which invalidity allowance has been paid to an insured person prior to his reaching the age of fifty-five years, or fifty years in the case of a woman, or periods in respect of which maternity benefit, or sickness benefit or injury benefit or total disablement pension have been paid under the West Pakistan Employees' Social Security Ordinance, 1965 (W.P. Ordinance No. X of 1965), to an insured person shall be deemed to be contribution periods to such extent as may be provided by regulations.

25. **Benefit claims and payments.**—(1) All claims for an allowance under this Act shall be made in writing and shall be accompanied by such documents, information and evidence as to entitlement as may be provided by regulations.

(2) Payment of an allowance shall be made in such manner, and at such times and places, as may be provided by regulations.

26. **Extinguishment of benefits.**—A right to the invalidity allowance or old-age allowance shall stand extinguished where a claim therefor is not made within twelve months of the date on which the allowance becomes payable.

27. **Suspension of old-age allowance.**—Subject to regulations, payment of old-age allowance shall be suspended when and so long as the insured person entitled to it—

(a) has taken up insurable employment in which he earns more than the old-age allowance ; or

(b) is absent from Pakistan, except where the regulations provide otherwise.

28. **Non-duplication of allowance.**—(1) An insured person shall not be paid for the same period more than one of the allowances provided for in this Act.

(2) Where an insured person is entitled to more than one allowance under this Act, he shall be given the higher of such allowances.

(3) Where an insured person is entitled to an allowance under this Act and to a disablement pension under the West Pakistan Employees' Social Security Ordinance, 1965 (W. P. Ordinance No. X of 1965) he shall be given the higher of the two.

(4) The invalidity allowance shall not be payable to an insured person so long as he receives the sickness benefit under the West Pakistan Employees' Social Security Ordinance, 1965 (W. P. Ordinance No. X of 1965).

29. **Allowances not attachable, chargeable or assignable.**—An allowance payable under this Act shall not be liable to attachment in the execution of a decree, nor shall it be chargeable or assignable ; and any agreement to charge or assign an allowance shall be void, and on the bankruptcy of an insured person, the allowance payable to him shall not pass to any trustee or person acting on behalf of his creditors.

30. **Repayment of allowance improperly received.**—(1) When a person has received any allowance under this Act to which he is not lawfully entitled, he shall be liable to repay to the Institution the amount of the allowance in such manner as may be provided by regulations :

Provided that the Institution may waive repayment of an allowance where payment thereof was not due to misrepresentation on the part of the insured person receiving it and the repayment would cause undue hardship to him.

(2) Sums due to the Institution by virtue of the foregoing sub-section may be recovered by deduction from an allowance payable under this Act.

31. **Institution's right to be indemnified in certain cases.**—Where the contingency for which an allowance is payable under this Act was caused under circumstances creating a legal liability in some person, the Institution shall be entitled to substitute itself for the insured person in bringing a suit for damages against that person.

32. **Recovery of amounts due.**—Any amount recoverable under this Chapter may be recovered as an arrear of land revenue.

CHAPTER VII

DETERMINATION OF QUESTIONS AND CLAIMS

33. **Decisions on complaints, questions and disputes.**—If any complaint is received or any question or dispute arises as to—

(a) whether a person is an insured person within the meaning of this Act ;

(b) the amount of wages of an insured person for the purposes of this Act ;

(c) the amount of contribution payable by an employer in respect of an insured person ;

(d) the person who is the employer in respect of an insured person ;

(e) entitlement to old-age or invalidity allowance or as to the amount and duration thereof ; or

(f) any other matter in respect of any contribution or any allowance referred to in clause (e), or dues payable or recoverable under this Act relating to contributions or the aforesaid allowances ;

the matter shall be decided by the Institution, in such manner, and within such time, as the regulations may provide and the Institution shall notify its decision to the person concerned in writing, stating therein the reason for its decision.

34. **Review of decisions.**—The Institution may, subject to regulations, on new facts being brought to its notice, review a decision given by it under section 33 :

Provided that no decision shall be so reviewed without giving the person concerned an opportunity of being heard and and adducing evidence in support of, or against, the decision, as the case may be.

35. **Appeal to Board.**—Subject to rules, a person aggrieved by a decision of the Institution under section 33 or on a review under section 34, may appeal to the Board.

36. **Assessment of invalidity.**—The Institution shall appoint medical boards which shall, in such manner as may be provided by regulations, assess the degree of invalidity sustained by an insured person.

CHAPTER VIII

OFFENCES AND PENALTIES

37. **Offences.**—If any person—

(a) for the purpose of obtaining an allowance, or denial of any payment or allowance, under this Act, whether for himself or some other person, or for the purpose of avoiding any payment to be made by himself or any other person under this Act—

(i) knowingly makes or causes to be made false statement or false representation ; or

(ii) produces or furnishes, or causes or knowingly allows to be produced or furnished, any document or information which he knows to be false in any material particular ; or

(b) fails to pay any contribution which under this Act he is liable to pay ; or

(c) recovers or attempts to recover from an insured persons, or deducts or attempts to deduct from his wages, the whole or any part of the contribution ; or

(d) fails or refuses to submit any return required by this Act, or regulations or makes a false return ; or

(e) obstructs any official of the Institution in the discharge of his duties ; or

(f) is guilty of any contravention of, or non-compliance with, any of the provisions of this Act or the rules or the regulations ;

he shall be punished with imprisonment for a term which may extend to two years, or with fine which may extend to ten thousand rupees, or with both.

38. **Prosecution.**—(1) No prosecution under this Act shall be instituted except with the previous sanction of the Federal Government or any officer or authority authorised in this behalf by it.

(2) No court inferior to that of a Magistrate of the first class shall try any offence under this Act.

(3) No court shall take cognizance of any offence under this Act except on a complaint made in writing within six months of the date on which the offence comes to the knowledge of the Federal Government or an officer or authority referred to in sub-section (1).

CHAPTER IX

MISCELLANEOUS

39. **Contributions etc.**—In any proceedings of insolvency against a person or proceedings for winding up of a company, any contribution or other amount payable under this Act by such person or company shall be deemed to be included among debts to be paid in priority to all other debts.

40. **Exemption from stamp duty.**—Stamp duty shall not be chargeable upon any documents used in connection with allowances payable under this Act.

41. **Exemption from taxes.**—Notwithstanding anything contained in any other law, the Federal Government may, by order in writing, exempt the Institution from any tax, duty, or rate leviable by the Federal Government or by a local authority under the control of the Federal Government.

42. **Member and servants of the Institution to be public servants.**—The members and employees of the Board and all officers and servants of the Institution shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code (Act XLV of 1860).

43. **Delegation of powers.**—The Board may direct that all or any of its powers and functions may, in relation to such matters and subject to such conditions, if any, as may be specified, be also exercisable by any, officer or authority subordinate to the Institution.

44. **Power to make rules.**—(1) The Federal Government may, subject to the condition of previous publication, by notification in the official Gazette, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(i) the tenure of office of members of the Board, other than the Chairman, and other terms and conditions of appointment of the members of the Board and the manner in which the Board shall conduct its business, including the number of members required to form a quorum at the meetings thereof ;

(ii) the manner in which names of persons from whom member of the Board may be appointed shall be submitted by organisations of employers and employees recognised by the Federal Government for that purpose ;

(iii) powers and functions of the Board ;

(iv) fees and allowances of the members of the Board ;

(v) times and rates at which, and conditions subject to which, contributions shall be payable ;

(vi) percentage or amount by which contributions in arrears may be increased under section 13 ;

(vii) investment of surplus moneys, realisation of investments and reinvestment of proceeds ;

(viii) terms at which and the manner in which the budget of the Institution shall be prepared and submitted to the Federal Government ;

(ix) the forms and manner in which the Institution shall keep accounts of its income and expenditure and of its assets and liabilities ;

(x) the times at which, and the manner in which, the accounts of the Institution shall be audited ;

(xi) the matters which the annual report of Institution shall cover ;

(xii) the times in which claims for an allowance shall be made ;

(xiii) the manner and procedure for disposal of appeals by the Board ; and

(xiv) any other matter which is required to be or may be prescribed.

45. **Power to make regulations.**—(1) The Board may subject to the condition of previous publication, by notification in the official Gazette, make regulations not inconsistent with the provisions of this Act or the rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely :—

(i) the time and places at which meetings of the Board shall be held ;

(ii) the manner in which daily wages shall be calculated for the purpose of determining the contribution payable ;

(iii) determination of wages for computation of contributions where the mode of payment of remuneration, in cash or kind, makes such computation difficult ;

(iv) records to be kept and returns to be submitted by employers, time at which and the form in which such returns are to be submitted, and particulars relating to the insured persons to be stated in such returns and the manner and form for registration of employers and insured persons ;

(v) the manner in which any claim of the Institution for unpaid contributions may be extinguished ;

(vi) Powers and duties of internal auditors ;

(vii) procedure and method of calculations and terms and conditions for the commutation of old-age allowance ;

(viii) the form and manner in which claims for an allowance shall be preferred, and the documents, information and evidence which shall accompany such claims ;

(ix) the manner in which and the time and places at which payment in respect of an allowance shall be made ;

(x) the manner in which and the time within which complaints, questions and disputes shall be decided ;

(xi) the circumstances and the manner in which, on new facts coming to light, the Institution may review decisions :

(xii) the method of payment of contributions and liability thereof ;

(xiii) the manner in which invalidity shall be assessed and the procedure thereof ;

(xiv) the manner in which proof of age shall be furnished for the purposes of this Act ;

(xv) the manner in which the services of the Institution shall be organised ; and

(xvi) any other matter not provided for in this Act or the rules and necessary to give effect to the provisions of this Act.

46. **Power to exempt.**—The Federal Government may, subject to such conditions as it thinks fit to impose, by notification in the official Gazette, exempt any establishment or industry from all or any of the provisions of this Act.

47. **Act not to apply to certain persons.**—Nothing in this Act shall apply to—

(a) persons in the service of the State, including members of the armed forces, police force and Railway servants ;

(b) persons in the service of a local council, a municipal committee, a cantonment board or any other local authority ;

(c) persons who are employed in services or installations connected with or incidental to the Armed Forces of Pakistan including an ordnance factory maintained by the Federal Government or Railway administration ;

(d) persons in the service of Water and Power Development Authority ;

(e) persons in the service of a bank or a banking company ;

(f) persons in the service of statutory bodies other than those employed in or in connection with the affairs of a factory registered under section 2 (j) of the Factories Act, 1934 (XXV of 1934), or the Mines Act, 1923 (IV of 1923) :

Provided that workshops maintained exclusively for the purposes of repair or maintenance of equipment or vehicles used in such statutory bodies shall not be treated as factories for the purposes of this clause ;

(g) members of the employer's family living in his house, in respect of their work for him ; and

(h) any person employed on wages exceeding one thousand rupees per mensem.

48. **Repeal.**—The Employees' Old-Age Pensions Ordinance, 1972 (X of 1972) and the Employees' Old-Age Benefits Ordinance, 1975 (XXVII of 1975), are hereby repealed.

ACT No. XV OF 1976

An Act further to amend the Code of Civil Procedure, 1908

WHEREAS it is expedient further to amend the Code of Civil Procedure, 1908 (Act V of 1908), for the purpose hereinafter appearing;

It is hereby enacted as follows:—

1. **Short title, extent and commencement.**—(1) This Act may be called the Code of Civil Procedure (Amendment) Act, 1976.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. **Amendment of First Schedule, Act V of 1908.**—In the Code of Civil Procedure, 1908 (Act V of 1908), in the First Schedule, in Order XXXIX, after rule 4, the following new rule shall be inserted, namely:—

> "4A. *Injunction to cease to be in force after certain period.*—An injunction granted by a Court in a suit which seeks to question the validity or legal effect of any order made, proceeding taken or act done by any authority or person, which has been made, taken or done, or purports to have been made, taken or done, under any law which is specified in Part I of the First Schedule to the Constitution or relates to, or is connected with, assessment or collection of public revenues shall cease to have effect on the expiration of a period of sixty days following the day on which it is made, unless the case is finally decided, or the injunction is discharged or set aside, by the Court earlier.
>
> *Explanation.*—In this rule, 'public revenues' includes the dues of any bank owned by the Federal Government or of any corporation or undertaking owned or controlled by the Federal Government or a Provincial Government.".

3. **Certain injunctions to cease to be in force.**—An injunction such as is referred to in rule 4A of Order XXXIX in the First Schedule to the Code of Civil Procedure, 1908 (Act V of 1908), granted by a Court before the commencement of this Act shall cease to have effect on the expiration of sixty days from such commencement, unless the case is finally decided or the injunction is discharged or set aside, by the Court earlier.

4. **Repeal.**—The Code of Civil Procedure (Amendment) Ordinance, 1975 (XXXI of 1975), is hereby repealed.

ACT No. XVI OF 1976

An Act further to amend the Legal Practitioners and Bar Councils Act, 1973

WHEREAS it is expedient further to amend the Legal Practitioners and Bar Councils Act, 1973 (XXXV of 1973), for the purpose hereinafter appearing;

It is hereby enacted as follows:—

1. **Short title and commencement.**—(1) This Act may be called the Legal Practitioners and Bar Councils (Amendment) Act, 1976.

(2) It shall come into force at once.

2. **Amendment of section 26, Act XXXV of 1973.**—In the Legal Practitioners and Bar Councils Act, 1973 (XXXV of 1973), in section 26, in sub-section (1), in clause (a), in the proviso, after the word "country", occurring for the first time, the words "who has resided in Pakistan for a period of not less than one year immediately preceding the day on which he applies for admission" shall be inserted.

3. **Repeal.**—The Legal Practitioners and Bar Councils (Amendment) Ordinance, 1976 (XII of 1976), is hereby repealed.

ACT No. XVII OF 1976

An Act to provide for the trial by a Special Court of certain offences

WHEREAS it is expedient to provide for the trial by a Special Court of certain offences affecting the security, integrity or sovereignty of Pakistan or any part thereof, including offences of high treason, and for matters connected therewith ;

It is hereby enacted as follows :—

1. **Short title, extent and commencement.**—(1) This Act may be called the Criminal Law Amendment (Special Court) Act, 1976.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. **Definitions.**—In this Act, unless there is anything repugnant in the subject or context,—

(a) "Code" means the Code of Criminal Procedure, 1898 (Act V of 1898) ;

(b) "Special Court" means the court set up under section 4.

3. **Certain offences triable by Special Court.**—(1) Any offence punishable under sections 121, 121A, 122, 123 and 123A of the Pakistan Penal Code (Act XLV of 1860), and any offence punishable under the High Treason (Punishment) Act, 1973 (LXVIII of 1973), including an offence of conspiracy to commit any such offence, whether committed before or after the commencement of this Act, shall be tried by the Special Court in accordance with the provisions of this Act.

(2) No court other than the Special Court shall try an offence which is triable by the Special Court under sub-section (1).

(3) If, in the course of a trial before the Special Court, the Court is of opinion that an accused before it has committed or appears to have committed any offence other than an offence referred to in sub-section (1), the Special Court shall record such opinion and refer such accused for the trial of such other offence to a court having jurisdiction to try the offence.

4. **Special Court.**—(1) For the purposes of section 3, the Federal Government shall, by notification in the official Gazette, set up a Special Court composed of three persons each of whom is a Judge of a High Court, and shall nominate one of the said persons to be the President of the Special Court.

(2) If any member of the Special Court through death, illness or any other reason is unable to continue to perform his functions, the Federal Government may, by notification in the official Gazette, declare the office of such member to be vacant and appoint thereto another person qualified to hold the office.

(3) If, in the course of a trial, any member of the Special Court is, for any reason, unable to attend any sitting thereof, the trial may continue before the other two members.

(4) The Special Court shall not merely by reason of any change in its membership or the absence of any of its members from any sitting be bound to recall and rehear any witness who has already given any evidence and may act on the evidence already given or produced before it.

(5) In the event of any difference of opinion among the members of the Special Court, the opinion of the majority shall prevail and the decision of the Special Court shall be expressed in terms of the views of the majority.

5. **Commencement of proceedings.**—(1) The Federal Government shall forward to the Special Court, on behalf of the prosecution, a complaint in the form of a statement of the case to be tried by the Court, together with a list of the accused persons, formal charges of offences alleged to have been committed by each one of them and a list of witnesses intended to be produced in support of each charge.

(2) For the purpose of taking cognizance of a case under this Act no other complaint would be necessary under any other law.

(3) The submission of a complaint or a list of witnesses or formal charges under sub-section (1) shall not preclude—

(a) the Federal Government from submitting an amended or additional statement of the case or charge at any time before judgment is pronounced, or

(b) the Federal Government or the prosecution from submitting additional names of witnesses at any subsequent stage of the prosecution evidence in the case.

6. **Powers and procedure of Special Court.**—(1) The Special Court shall have, in respect of a case triable by it, all the powers which a High Court has in relation to trial before it under the Code, but shall, notwithstanding anything contained in the Code, proceed with the trial in the following manner, namely :—

(a) as soon as the accused appears or is brought before the Special Court, the formal charges referred to in section 5 shall be read and explained to the accused, and he shall be asked whether he is guilty or has any defence to make ;

(b) if the accused pleads guilty, the Special Court shall record the plea, and may in its discretion convict him thereon ;

(c) if the accused pleads not guilty or refuses to plead, or claims to be tried, the Special Court shall proceed to take all such evidence as may be produced in support of the prosecution ;

(d) on the close of the evidence of the prosecution, the Special Court shall examine the accused and record his statement as required by section 342 of the Code and, if the accused puts in any written statement, the Special Court shall file it with the record ;

(e) after such statement of the accused as is referred to in clause (d) is recorded, the Special Court shall call upon the accused to enter upon his defence, and shall examine all such witnesses as may be produced by the accused or called at the instance of the accused :

Provided that the Special Court may refuse to examine or call any such witness, if the Special Court is satisfied that the accused intends to call or examine such witness to cause vexation or delay or to defeat the ends of justice ;

(f) after all the evidence referred to in the foregoing clauses is recorded, the Special Court shall hear the prosecutor and defence counsel, and on conclusion of the same shall proceed to pronounce its judgment ;

(g) the persons mentioned in the list of accused persons referred to in sub-section (1) of section 5 and the offences with which they are charged shall be tried together :

(h) the proceedings of the Special Court shall be recorded under its direct supervision :

Provided that, if the Special Court so directs, the evidence of any witness may be taken down in shorthand or typescript by a person specially appointed for the purpose ; and the transcript of the shorthand or the typescript with necessary corrections shall form part of the record ; and

(i) all orders and proceedings and the evidence of each witness shall be signed by at least two members of the Special Court and the final judgment shall be signed by each of the three members.

(2) The Special Court shall have the power to punish any person who obstructs or abuses its process or disobeys any of its orders or directions, or does anything which tends to prejudice the case of a party before it, or tends to bring it or any of its members into hatred or contempt, or does anything which, by law, constitutes contempt of court, with simple imprisonment for a term which may extend to six months or with fine which may extend to two hundred rupees, or with both.

7. **Place of sitting.**—The Special Court shall hold its sittings at such place or places as the Federal Government may appoint.

8. **Proceedings to be open.**—Subject to any restriction imposed by the Special Court, its proceedings shall be open to the public but only such part of the proceedings shall be published as may be approved by the Special Court.

9. **Restriction of adjournments.**—No trial before the Special Court shall be adjourned for any purpose unless the Special Court is of opinion that the adjournment is necessary in the interests of justice and, in particular, no trial shall be adjourned by reason of the absence of any accused person due to illness, or if the absence of the accused or his counsel has been brought about by the accused person himself, or if the behaviour of the accused person prior to such absence has been, in the opinion of the Special Court, such as to impede the course of justice but, in any such case, the Special Court shall proceed with the trial after taking necessary steps to appoint an advocate to defend any such accused person.

10. **Special rules of evidence.**—(1) The Special Court may receive in evidence,—

(a) any statement recorded by a Magistrate, being a statement made by any person who, at the time of the trial, is dead, or cannot be found or whose attendance cannot be procured without any amount of delay or expense which the Special Court considers unreasonable in the circumstances ;

(b) any statement or confession of an accused person recorded by a Magistrate under the Code, whether before or after the registration of a case triable by the Special Court ;

(c) any previous judgment of a Special Court constituted under the Suppression of Terrorist Activties (Special Court) Ordinance, 1974 (XVIII of 1974), or the Suppression of Terrorist Activities (Special Courts) Act, 1975 (XV of 1975) ; and

(d) the conclusions arrived at by the Supreme Court in its decision on a reference made to it under sub-section (2) of section 6 of the Political Parties Act, 1962 (III of 1962) :

Provided that such statement, confession, judgment, conclusion or decision is relevant to the trial or proceedings before it.

(2) No objection to any document or property seized in the course of the investigation being received or produced in evidence shall be entertained on any ground other than a ground affecting its admissibility under the Evidence Act, 1872 (I of 1872).

11. **Provision for counsel.**—(1) The Federal Government may appoint one or more persons to conduct the prosecution in a case forwarded to the Special Court for trial and every such person shall be deemed to be a public prosecutor for the purposes of the Code.

(2) Where an accused person is not represented by counsel, the Special Court may, at any stage of the case, direct that a counsel, being any advocate selected by it after taking into consideration the views of the accused person, shall be engaged at the expense of the Federal Government to defend the accused person and may also determine the fees to be paid to such counsel.

12. **Jurisdiction, etc., of Special Court not to be questioned.**—(1) No Court shall entertain any plea as to the jurisdiction of the Special Court or as to the legality or propriety of anything done or purported to be done by the Special Court or order the release under section 491 or section 498 of the Code or any other law of any accused person in a case triable by the Special Court for so long as the Court is seized of the case.

(2) Save as provided in sub-section (3), no order, judgment or sentence of the Special Court shall be called in question in any manner whatsoever in or before any court or other authority.

(3) Any party aggrieved by the final judgment of the Special Court may prefer an appeal to the Supreme Court within thirty days of the passing of the judgment.

13. **Act to override all other laws.**—The provisions of this Act shall have effect notwithstanding anything contained in the Code, the Evidence Act, 1872 (I of 1872), or any other law for the time being in force.

14. **Repeal.**—The Criminal Law Amendment (Special Court) Ordinance, 1975 (XXIX of 1975), and the Criminal Law Amendment (Special Court) (Amendment) Ordinance, 1976 (XI of 1976), are hereby repealed.

MUHAMMAD ILYAS,
Additional Secretary.

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 19th April, 1976

No. F. 24 (1)|76-Pub.—The Following Ordinance made by the President on the 19th April, 1976 is hereby published for general information :—

ORDINANCE No. XVIII OF 1976

AN

ORDINANCE

further to amend the Code of Criminal Procedure, 1898

WHEREAS it is expedient further to amend the Code of Criminal Procedure, 1898 (Act V of 1898), for the purposes hereinafter appearing ;

AND WHEREAS the National Assembly is not in session and the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title, extent and commencement.**—(1) This Ordinance may be called the Code of Criminal Procedure (Amendment) Ordinance, 1976.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. **Substitution of Chapter XXIIA, Act V of 1898.**—In the Code of Criminal Procedure, 1898 (Act V of 1898), hereinafter referred to as the Code, for Chapter XXIIA the following shall be substituted, namely :—

"CHAPTER XXIIA

Trials before High Courts and Courts of Session

265A. *Trial before Court of Session to be conducted by Public Prosecutor.*— In every trial before a Court of Session, initiated upon a police report, the prosecution shall be conducted by the Public Prosecutor.

265B. *Procedure in cases triable by High Courts and Courts of Session.*— The following procedure shall be observed by the Hight Courts and the Courts of Session in the trial of cases triable by the said Courts.

265C. *Supply of statements and documents to the accused.*—(1) In all cases instituted upon police report, copies of the following documents shall be supplied free of cost to the accused not later than seven days before the commencement of the trial, namely :—

(a) the first information report ;

(b) the police report ;

(c) the statements of all witnesses recorded under sections 161 and 164 ; and

(d) the inspection note recorded by an investigation officer on his first visit to the place of occurrence and the note recorded by him on recoveries made, if any :

Provided that, if any part of a statement recorded under section 161 or section 164 is such that its disclosure to the accused would be inexpedient in the public interest, such part of the statement shall be excluded from the copy of the statement furnished to the accused.

(2) In all cases instituted upon a complaint in writing,—

(a) the complainant shall—

(i) state in the petition of complaint the substance of the accusation, the names of his witnesses and the gist of the evidence which he is likely to adduce at the trial ; and

(ii) within three days of the order of the Court under section 204 for issue of process to the accused, file in the Court for supply to the accused as many copies of the complaint and any other document which he has filed with his complaint as the number of the accused ; and

(b) copies of the complaint and any other documents which the complainant has filed therewith and the statements under section 200 or section 202 shall be supplied free of cost to the accused not later than seven days before the commencement of the trial.

265D. *When charge is to be framed.*—If, after persuing the police report or, as the case may be, the complaint, and all other documents and statements filed by the prosecution, the Court is of opinion that there is ground for proceeding with the trial of the accused it shall frame in writing a charge against the accused.

265E. *Plea.*—(1) The charge shall be read and explained to the accused, and he shall be asked whether he is guilty or has any defence to make.

(2) If the accused pleads guilty, the Court shall record the plea, and may in its discretion convict him thereon.

265F. *Evidence for prosecution.*—(1) If the accused does not plead guilty or the Court in its discretion does not convict him on his plea, the Court shall proceed to hear the complainant (if any) and take all such evidence as may be produced in support of the prosecution:

Provided that the Court shall not be bound to hear any person as complainant in any case in which the complaint has been made by a Court.

(2) The Court shall ascertain from the Public Prosecutor or, as the case may be, from the complainant, the names of any persons likely to be acquainted with the facts of the case and to be able to give evidence for the prosecution, and shall summon such persons to give evidence before it.

(3) The Court may refuse to summon any such witness, if it is of opinion that such witness is being called for the purpose of vexation or delay or defeating the ends of justice. Such ground shall be recorded by the Court in writing.

(4) When the examination of the witnesses for the prosecution and the examination (if any) of the accused are concluded, the accused shall be asked whether he means to adduce evidence.

(5) If the accused puts in any written statement, the Court shall file it with the record.

(6) If the accused, or any one of several accused, says that he means to adduce evidence, the Court shall call on the accused to enter on his defence and produce his evidence.

(7) If the accused, or any one of several accused, after entering on his defence, applies to the Court to issue any process for compelling the attendance of any witness for examination or the production of any document or other thing, the Court shall issue such process the attendance of any witness for examination or the production of vexation or delay or defeating the ends of justice. Such ground shall be recorded by the Court in writing.

265G. *Summing up by prosecutor and defence.*—(1) In cases where the accused, or any one of several accused, does not adduce evidence in his defence, the Court shall, on the close of the prosecution case and examination (if any) of the accused, call upon the prosecutor to sum up his case whereafter the accused shall make a reply.

(2) In case where the accused, or any of the several accused, examines evidence in his defence, the Court shall, on the close of the defence case, call upon the accused to sum up the case whereafter the prosecutor shall make a reply.

265H. *Acquittal or conviction.*—(1) If in any case under this Chapter in which a charge has been framed the Court finds the accused not guilty, it shall record an order of acquittal.

(2) If in any case under this Chapter the Court finds the accused guilty the Court shall, subject to the provisions of section 265I, pass a sentence upon him according to law.

265I. *Procedure in case of previous conviction.*—(1) In a case where, by reason of a previous conviction, the accused has been charged under section 221, sub-section (7), the Court, after finding the accused guilty of the offence charged and recording a conviction, shall record the plea of the accused in relation to such part of the charge.

(2) If the accused admits that he has been previously convicted as alleged in the charge, the Court may pass a sentence upon him according to law, and if the accused does not admit that he has been previously convicted as alleged in the charge, the Court may take evidence in respect of the alleged previous conviction, and shall record a finding thereon, and then pass sentence upon him according to law.

265J. *Statement under section 164 admissible.*—The statement of a witness duly recorded under section 164, if it was made in the presence of the accused and if he had notice of it and was given an opportunity of cross-examining the witness, may, in the discretion of the Court, if such witness is produced and examined, be treated as evidence in the case for all purposes subject to the provisions of the Evidence Act, 1872 (II of 1872).

265K. *Power of Court to acquit accused at any stage.*—Nothing in this Chapter shall be deemed to prevent a Court from acquitting an accused at any stage of the case, if, after hearing the prosecutor and the accused and for reasons to be recorded, it considers that there is no probability of the accused being convicted of any offence.

265L. *Power of Advocate-General to stay prosecution.*—At any stage of any trial before a High Court under this Code, before the sentence is passed, the Advocate-General may, if he thinks fit, inform the Court on behalf of Government that he will not prosecute the accused upon the charge; and thereupon all proceedings against the accused shall be stayed, and he shall be discharged of and from the same. But such discharge shall not amount to an acquittal unless the presiding judge otherwise directs.

265M. *Time of holding sittings.*—For the exercise of its original criminal jurisdiction, every High Court shall hold sittings on such days and at such convenient intervals as the Chief Justice of such Court from time to time appoints.

265N. *Place of holding sittings.*—(1) The High Court shall hold its sittings at the place at which it held them immediately before the commencement of the Law Reforms Ordinance, 1972, or at such other place (if any) as the Provincial Government may direct.

(2) But the High Court may, from time to time with the consent of the Provincial Government, hold sittings at such other places within the local limits of its appellate jurisdiction as the High Court appoints.

(3) Such officer as the Chief Justice directs shall give prior notice in the official Gazette of all sittings intended to be held for the exercise of the original criminal jurisdiction of the High Court. ".

3. **Saving.**—Notwithstanding anything contained in the Law Reforms Ordinance, 1972 (XII of 1972), or in the Code as amended by this Ordinance, any case triable by the Court of Session or High Court and pending, immediately before the commencement of this Ordinance, in such Court, in which no evidence has been recorded before such commencement shall be proceeded with and completed in accordance with the provisions of this Ordinance.

FAZAL ELAHI CHAUDHRY,
President.

Countersigned.

ZULFIKAR ALI BHUTTO,
Prime Minister.

ABDUL HAYEE KURESHI,
Secretary.

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PART I

Acts, Ordinances, President's Orders and Regulations

NATIONAL ASSEMBLY SECRETARIAT

Islamabad, the 26th April, 1976

The following Act of Parliament received the assent of the President on the 18th April, 1976, and is hereby published for general information :—

An Act to provide for the conduct of elections to the reserved seats in the National Assembly and the Provincial Assemblies.

WHEREAS it is expedient to provide for the conduct of elections to the reserved seats in the National Assembly and the Provincial Assemblies and to guard against corrupt and illegal practices and other offences at or in connection with such elections and for the determination of doubts and disputes arising out of or in connection with elections, and other matters arising out of or connected therewith ;

It is hereby enacted as follows :—

CHAPTER I—PRELIMINARY

1. **Short title, extent and commencement.**—(1) This Act may be called the National and Provincial Assemblies (Elections to Reserved Seats) Act, 1976.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. **Definitions.**—In this Act, unless there is anything repugnant in the subject or context,—

- (i) " Article " means Article of the Constitution ;
- (ii) " Assembly " means the National Assembly or a Provincial Assembly for a Province ;

Price : Ps. 87

[1684 Ex. Gaz.]

(iii) " candidate " means a person seeking election as a member ;

(iv) " Commission " means the Election Commission constituted under Article 218 ;

(v) " Commissioner " means the Chief Election Commissioner appointed under the Constitution and includes—

  (i) the person continuing in the office of Chief Election Commissioner by virtue of Article 275 ; and

  (ii) a Judge of the Supreme Court nominated under Article 217 to act as Chief Election Commissioner ;

(vi) " constituency " means a constituency delimited under the Delimitation of Constituencies Act, 1974 (XXXIV of 1974), provided that in respect of a bye-election to a seat reserved for women, in the National Assembly or a Provincial Assembly, **to be held at any time before** the expiry of the term of the first National Assembly, it shall mean a constituency delimited under the Delimitation of Constituencies Order, 1970 (P. O. No. 3 of 1970) ;

(vii) " election " means election to a seat of a member held under this Act ;

(viii) " election petition " means an election petition made under section 12 ;

(ix) " elector ", in relation to an Assembly, means a person elected to a general seat in that Assembly ;

(x) " member " means member of an Assembly ;

(xi) " prescribed " means prescribed by rules made under this Act ;

(xii) " returned candidate " means a candidate who has been declared elected as a member under this Act ;

(xiii) " Tribunal " means an Election Tribunal appointed under section 17 for the trial of election petitions.

CHAPTER II—ELECTION COMMISSION

3. **Procedure of the Commission.**—(1) Subject to the provisions of this section, the Commission shall regulate its procedure.

(2) If, upon any matter requiring a decision of the Commission, there is difference of opinion among its members, the opinion of the majority shall prevail and the decision of the Commission shall be expressed in terms of the opinion of the majority.

(3) The Commission may exercise its powers and perform its functions notwithstanding that there is a vacancy in the office of any one of its members or that any one of its members is, for any reason, unable to attend its pro-

ceedings and the decision of the other two members shall have the effect of the decision of the Commission :

Provided that, in the event of a difference of opinion between the two members attending the proceedings of the Commission,—

(a) if the Commissioner is one of the two members, his opinion shall prevail and the decision of the Commission shall be expressed in terms of that opinion ; and

(b) in the other case, the matter shall be placed for a decision before the Commission.

4. **Power to punish for contempt.**—The Commission, the Commissioner and the members of the Commission shall have the same powers to punish its or their contempt as are vested in a High Court under Article 204.

5. **Delegation of powers, etc.**—The Commission may authorise its Chairman or any of its members or any of the officers of the Commission to exercise and perform all or any of its powers and functions under this Act.

6. **Assistance to the Commission.**—(1) All executive authorities in the Federation and in the Provinces shall render such assistance to the Commissioner and the Commission in the discharge of his or their functions as may be required of them by the Commissioner or the Commission.

(2) The Commissioner or the Commission may require any person or authority to perform such functions or render such assistance for the purpose of this Act as he or it may direct.

CHAPTER III—ELECTION TO SEATS RESERVED FOR WOMEN OR CERTAIN COMMUNITIES

7. **Election to reserved seats.**—(1) The members for seats reserved for women in an Assembly shall be elected, subject to the provisions of clause (5) of Article 51 or, as the case may be, clauses (4) and (5) of Article 106, by the persons elected to the general seats in that Assembly so that there is one mem ber for each of the constituencies for seats reserved for women in that Assembly.

(2) The members for seats reserved in an Assembly for persons belonging to the Christian, Hindu, Sikh, Buddhist and Parsi Communities and persons of the Quadiani group or the Lahori group (who call themselves 'Ahmadis') and other non-Muslims and persons belonging to the scheduled castes shall be elected, subject to the provisions of clause (4A) of Article 51 or, as the case may be, clause (5) of Article 106, by the persons elected to the general seats in that Assembly.

(3) The Commission shall hold and conduct the election to fill the seats reserved in an Assembly for the persons referred to in clause (3) of Article 106 or for women in such manner as it may think fit.

CHAPTER IV—ELECTION EXPENSES

8. **Definition.**—In this Chapter, "election expenses" means any expenditure incurred before, during and after an election or payment made, whether by way of gift, loan, advance, deposit or otherwise, for the arrangement, conduct or benefit of or in connection with, or incidental to, the election of a candidate, including the expenditure on account of issuing circulars or publications or otherwise presenting to the electors the candidate or his views, aims or objects.

9. **Restriction on election expenses.**—(1) No person shall, except as provided in sub-section (2), make any payment whatsoever towards the election expenses of a candidate except to such candidate.

(2) No person other than the candidate shall incur any election expenses of such candidate :

Provided that any person may, if so authorised by a candidate in writing specifying a maximum amount, to the extent of such amount, make payment for stationery, postage, telegram and other petty expenses.

(3) The election expenses of a candidate shall not exceed,—

(a) in the case of an election to a seat in the National Assembly, thirty-five thousand rupees ;

(b) in the case of an election to a seat in a Provincial Assembly, twenty-five thousand rupees.

(4) Any person incurring any expenditure or making any payment under sub-section (2) shall, within fourteen days of the declaration of the result of the election, send to the candidate a statement of such expenditure or the particulars of such payment.

(5) A candidate shall, by a bill stating the particulars and by a receipt, vouch for every payment made in respect of election expenses, except where the amount is less than twenty-five rupees.

10. **Return of election expenses.**—(1) Every candidate shall, within forty-five days after the publication of the name of the returned candidate, submit to the returning Officer a return of election expenses in the prescribed form containing :

(a) a statement of all payments made by the candidate together with all the bill and receipts ;

(b) a statement of all disputed claims of which the candidate is aware ;

(c) a statement of all unpaid claims, if any, of which the candidate is aware ; and

(d) a statement of all moneys, securities or equivalent of money received from any person for the purpose of election expenses specifying the name of every such person.

(2) The return submitted under sub-section (1) shall be accompanied by an affidavit in the prescribed form sworn by the contesting candidate.

11. **Inspection of returns, etc.**—(1) The return and documents submitted under section 10 shall be kept by the Commissioner in his office or at such other convenient place as he may think fit and shall, during one year from the date of their receipt by him, be open to inspection by any person on payment of the prescribed fee.

(2) The Commissioner shall, on an application made in this behalf and payment of the prescribed fee, give any person copies of any return, or document kept under sub-section (1) or of any part thereof.

CHAPTER V—ELECTION DISPUTES

12. **Election Petition.**—(1) No election shall be called in question except by an election petition made by a candidate for that election (hereinafter in this Chapter referred to as the petitioner).

(2) An election petition shall be presented to the Commissioner within forty-five days of the publication in the official Gazette of the name of the returned candidate and shall be accompanied by a receipt showing that the petitioner has deposited at any branch of the National Bank of Pakistan or at a Government Treasury or sub-Treasury in favour of the Commissioner, under the prescribed head of account, as security for the costs of petition, a sum of one thousand rupees.

13. **Presentation of petition.**—(1) An election petition shall be presented by a petitioner and shall be deemed to have been presented—

(a) when it is delivered in person to the Secretary to the Commission or to such other officer as may be appointed by the Commission in that behalf,—

  (i) by the petitioner ; or

  (ii) by a person authorised in writing in this behalf by the petitioner ; or

(b) when delivered by registered post to the Secretary to the Commission or to such other officer as aforesaid.

(2) An election petition, if sent by registered post, shall be deemed to have been presented in time if it is posted within the period specified in sub-section (2) of section 12.

14. **Parties to the petition.**—The petitioner shall join all the candidates as respondents to his election petition and shall serve personally or by registered post on each such respondent a copy of his petition.

15. **Contents of petition.**—(1) Every election petition shall contain—

(a) a precise statement of the material facts on which the petitioner relies ;

(b) full particulars of any corrupt or illegal practice or other illegal act alleged to have been committed, including as full a statement as possible of the names of the parties alleged to have committed such corrupt or illegal practice or illegal act and the date and place of the commission of such practice or act ; and

(c) the relief claimed by the petitioner.

(2) A petitioner may claim as relief any of the following declarations, namely :—

(a) that the election of the returned candidates is void ;

(b) that the election of the returned candidate is void and that the petitioner or some other person has been duly elected ; or

(c) that the election as a whole is void.

(3) Every election petition and every schedule or annex to that petition shall be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908 (Act V of 1908), for the verification of pleadings.

16. **Procedure on receipt of petition by the Commissioner.**—(1) If the Commissioner finds that any provision of section 12, section 13 or section 14 has not been compiled with, the petition shall be dismissed forthwith.

(2) If an election petition is not dismissed under sub-section (1), the Commissioner shall refer it for trial to a Tribunal.

17. **Appointment of Tribunal.**—(1) For the trial of election petitions under this Act, the Commissioner shall appoint as many Election Tribunals as may be necessary.

(2) An Election Tribunal shall consist of a person who is or has been a Judge of the Supreme Court or High Court.

18. **Power to transfer petition.**—The Commissioner, either of his own motion or on an application made in this behalf by any of the parties, may, at any stage, transfer an election petition from one Tribunal to another Tribunal and the Tribunal to which the election petition is so transferred—

(a) shall proceed with the trial of the petition from the stage from which it is transferred; and

(b) may, if it thinks fit, recall and examine any of the witnesses already examined.

19. **Place of trial.**—The trial of an election petition shall be held at such place or places as the Tribunal may think fit.

20. **Attorney-General, etc., to assist the Tribunal.**—In the case of an election petition relating to an election to the National Assembly, the Attorney-General for Pakistan, and in the case of such petition relating to an election to a Provincial Assembly, the Advocate-General for the Province, shall render to the Tribunal such assistance at the hearing of the petition as it may require.

21. **Appearance before Tribunal.**—Any appearance, application or act before a Tribunal may be made or done by a party in person or by an advocate or any other person entitled or allowed to plead in any civil court and duly appointed to act on his behalf:

Provided that the Tribunal may, where it considers it necessary, direct any party to appear in person.

22. **Procedure before Tribunal.**—(1) Subject to the provisions of this Act and the rules, every election petition shall be tried, as nearly as may be, in accordance with the procedure for the trial of suits under the Code of Civil Procedure, 1908 (Act V of 1908):

Provided that the Tribunal may—

(a) make a memorandum of the substance of the evidence of each witness as his examination proceeds unless it considers that there is special reason for taking down the evidence of any witness in full; and

(b) refuse to examine a witness if it considers that his evidence is not material or that he has been called on a frivolous ground for the purpose of delaying the proceedings.

(2) Subject to the provisions of this Act the Evidence Act, 1872 (Act I of 1872), shall apply for the trial of an election petition.

(3) The Tribunal may, at any time, upon such terms and on payment of such fee as it may direct, allow a petition to be amended in such manner as may, in its opinion, be necessary for ensuring a fair and effective trial and for determining the real questions at issue, so, however, that no new ground of challenge to the election is permitted to be raised.

(4) At any time during the trial of an election petition, the Tribunal may call upon the petitioner to deposit such further sum by way of security, in addition to the sum deposited under section 12, as it may think fit.

23. **Dismissal of petition during trial.**—The Tribunal shall dismiss an election petition, if—

(a) the provisions of section 14 or section 15 have not been complied with ; or

(b) if the petitioner fails to make the further deposit required under sub-section (4) of section 22.

24. **Powers of the Tribunal.**—The Tribunal shall have all the powers of civil court trying a suit under the Code of Civil Procedure, 1908 (Act V of 1908), and shall be deemed to be a civil court within the meaning of sections 480 and 482 of the Code of Criminal Procedure, 1898 (Act V of 1898).

25. **Further provision relating to evidence and witnesses.**—(1) Notwithstanding anything to the contrary contained in any other law for the time being in force, no document shall be inadmissible in evidence at the trial of an election petition only on the ground that it is not duly stamped or registered.

(2) No witness shall be excused from answering any question as to any matter in issue, or relevant to a matter in issue, in the trial of an election petition upon the ground that the answer to such question may incriminate or tend to incriminate him or that it may expose or tend to expose him to any penalty or forfeiture ; but no witness shall be required or permitted to state for whom he has voted at an election.

(3) A witness who answers truly all questions which he is required to answer shall be entitled to receive a certificate of indemnity from the Tribunal and an answer given by him to a question put by or before the Tribunal shall not, except in the case of any criminal proceeding for perjury in respect of his evidence, be admissible in evidence against him in any civil or criminal proceedings.

(4) A certificate of indemnity granted to any witness under sub-section (3) may be pleaded by him in any court and shall be a full and complete defence to or upon any charge under Chapter IXA of the Pakistan Penal Code (Act XLV of 1860) or under this Act arising out of the matter to which such certificate relates, but it shall not be deemed to relieve him from any disqualification in connection with an election imposed by any law for the time being in force.

(5) The reasonable expenses incurred by any person in attending to give evidence may be allowed to him by the Tribunal and shall, unless the Tribunal otherwise directs, be deemed to be part of the costs.

26. **Recrimination where seat is claimed.**—(1) Where in an election petition a declaration is claimed that a candidate other than the returned candidate has been duly elected, the returned candidate or any other party may produce evidence to prove that the election of such other candidate would have been declared void had he been the returned candidate and had a petition been presented calling his election in question :

Provided that the returned candidate or such other party as aforesaid shall not be entitled to give such evidence unless he or it has, within the fourteen days next following the commencement of the trial, given notice to the Tribunal of his intention so to do and has also deposited the security referred to in section 12.

(2) Every notice referred to in sub-section (1) shall be accompanied by a statement of the case, and all the provisions relating to the contents, verification, trial and procedure of an election petition, or to the security deposit in respect of an election petition, shall apply to such a statement as if it were an election petition.

27. **Decision of the Tribunal.**—(1) The Tribunal may, upon the conclusion of the trial of an election petition, make an order—

(a) dismissing the petition ;

(b) declaring the election of the returned candidate to be void ;

(c) declaring the election of the returned candidate to be void and the petitioner or any other candidate to have been duly elected ; or

(d) declaring the election as a whole to be void.

(2) The decision of a Tribunal on an election petition shall be final.

28. **Ground for declaring election of returned candidate void.**—(1) The Tribunal shall declare the election of the returned candidate to be void if it is satisfied that—

(a) the returned candidate was not qualified for, or was disqualified from, being elected as a member ; or

(b) the election of the returned candidate has been procured or induced by any corrupt or illegal practice ; or

(c) a corrupt or illegal practice has been committed by the returned candidate or by any other person with the connivance of the candidate.

(2) The election of a returned candidate shall not be declared void on the ground—

(a) that any corrupt or illegal practice has been committed, if the Tribunal is satisfied that it was not committed by, or with the consent or connivance of, that candidate and that the candidate took all reasonable precaution to prevent its commission ; or

(b) that any of the other candidates was not qualified for, or was disqualified from, being elected as a member.

29. **Ground for declaring a person other than a returned candidate elected.**—The Tribunal shall declare the election of the returned candidate to be void and the petitioner or any other candidate to have been duly elected, if it is so claimed by the petitioner or any of the respondents and the Tribunal is satisfied that the petitioner or such other candidate was entitled to be declared elected.

30. **Ground for declaring election as a whole void.**—The Tribunal shall declare the election as a whole to be void if it is satisfied that the result of the election has been materially affected by reason of—

(a) the failure of any person to comply with the provisions of this Act or the rules ; or

(b) the prevalence of extensive corrupt or illegal practice at the election.

31. **Decision in case of equality of votes.**—(1) Where after the conclusion of the trial, it appears that there is an equality of votes between two or more candidates, and the addition of one vote for one candidate would entitle him to be declared elected, the Tribunal shall so inform the Commissioner who shall then direct a fresh poll to be taken in respect of the said candidates and fix a date for such poll.

(2) All the provisions of this Act relating to preservation and inspection of documents shall apply to the fresh poll as at an election held under the provisions of this Act.

32. **Other provisions relating to Tribunal.**—(1) An order of the Tribunal under section 27 shall take effect on the date on which it is made and shall be communicated to the Commissioner who shall publish it in the official Gazette.

(2) The Tribunal shall after an election petition has been disposed of, forward the record thereof to the Commissioner who shall retain it for a period of five years from the date of its receipt and shall thereafter cause it be destroyed.

33. **Withdrawal of petition.**—(1) An election petition may be withdrawn—

(a) before the Tribunal has been appointed, by leave of the Commissioner ; and

(b) after a Tribunal has been appointed, by leave of the Tribunal.

(2) Where leave is granted by the Tribunal, the petitioner shall be ordered to pay the costs incurred by the respondents to the election petition or such portion thereof as the Tribunal may direct.

34. **Abatement on death of petitioner.**—(1) An election petition shall abate on the death of a sole survivor of several petitioners.

(2) Where a petition abates under sub-section (1) after a Tribunal has been appointed, notice of the abatement shall be given by the Tribunal to the Commissioner.

35. **Death or withdrawal of respondent.**—If, before the conclusion of the trial of an election petition, a respondent dies or gives notice in the prescribed form that he does not intend to contest the petition, and no respondent remains to contest the petition, the Tribunal shall, without any further hearing, or after

giving such person as it may think fit an opportunity of being heard, decide the case *ex-parte*.

36. **Failure of petitioner to appear.**—Where, at any stage of the trial of an election petition, no petitioner makes an appearance, the Tribunal may dismiss the petition for default, and make such order as to costs as it may think fit.

37. **Order as to costs.**—(1) The Tribunal shall, when making an order under section 27, also make an order determining in its discretion the costs and specifying the person by and to whom such costs are to be paid.

(2) If, in any order as to costs under sub-section (1) there is a direction for the payment of costs by any party to any person, such costs shall, if they have not already been paid, be payable in full and shall, upon application in writing in that behalf made to the Tribunal within six months of the order by the person to whom costs have been awarded, be paid, as far as possible, out of the security for costs deposited by such party.

(3) Where no costs have been awarded against a party who has deposited security for costs, or where no application for payment of costs has been made within the aforesaid six months, or where a residue remains after costs have been paid out of the security, such security or the residue thereof, as the case may be, shall, upon application in writing therefor by the person who made the deposit or by his legal representative, be returned by the Tribunal to the person making the application.

(4) Any order for costs may be enforced upon application in writing made to the principal civil court of original jurisdiction of the district in which the person from whom the costs are to be recovered resides or owns property, as if such order were a decree passed by that court :

Provided that no proceeding shall be brought under this sub-section except in respect of costs which have not been recovered by an application under sub-section (2).

CHAPTER VI

OFFENCES, PENALTY AND PROCEDURE

38. **Corrupt practice.**—A person is guilty of corrupt practice if he—

(1) contravenes the provisions of section 9 ;

(2) is guilty of bribery, personation or undue influence ;

(3) makes or publishes a false statement concerning the personal character of a candidate or any of his relations calculated to adversely affect the election of such candidate or for the purpose of promoting or procuring the election of another candidate, unless he proves that he had reasonable grounds for believing, and did believe, the statement to be true ; or

(4) calls upon or persuades any person to vote, or to refrain from voting, for any candidate on the ground that he belongs to a particular religion, community, race, caste, *bradari*, set or tribe.

39. **Bribery.**—A person is guilty of bribery, if he, directly or indirectly, by himself or by any other person on his behalf,—

(1) receives or agrees to receive or contracts for any gratification for voting or refraining from voting, or for being or refraining from being a candidate, at an election ; or

(2) gives, offers or promises any gratification to any person—

(a) for the purpose of inducing—

(i) a person to be, or to refrain from being, a candidate at an election ; or

(ii) an elector to vote, or refrain from voting, at an election : or

(b) for the purpose of rewarding a person for having been or for having refrained from being, a candidate at an election.

Explanation.—In this section, "gratification" includes a gratification in money estimable in money and all forms of entertainment or employment.

40. **Undue influence.**—A person is guilty of undue influence, if he—

(1) in order to induce or compel and person to vote or refrain from voting, or to offer himself as a candidate, at an election, directly or indirectly, by himself or by any other person on his behalf,—

(a) makes or threatens to make use of any force, violence or restraint ;

(b) inflicts or threatens to inflict any injury, damage, harm or loss ;

(c) calls down or threatens to call down divine displeasure or the displeasure of any saint or *pir ;*

(d) gives or threatens to give any religious sentence ; or

(e) use any official influence or governmental patronage ; or

(2) on account of any person having voted or refrained from voting, or having offered himself as a candidate, does any of the acts specified in clause (1) ; or

(3) by abduction, duress or any fraudulent device or contrivance,—

(a) impedes or prevents the free exercise of the franchise by an elector ; or

(b) compels, induces or prevails upon any elector to vote or refrain from voting.

Explanation.—In this section, "harm" includes social ostracism or *ex*-communication or expulsion from any caste or community.

41. **Penalty for corrupt practice.**—Any person guilty of corrupt practice shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to five thousand rupees, or with both.

42. **Illegal practice.**—(1) A person is guilty of illegal practice if he—

(a) fails to comply with the provisions of section 10 ;

(b) obtains or procures, or attempts to obtain or procure, the assistance of any person in the service of Pakistan to further or hinder the election of a candidate ; or

(c) knowingly induces or procures any person to do any of the aforesaid acts.

(2) Any person guilty of illegal practice shall be punishable with fine which may extend to two thousand rupees.

43. **Assistance by Government servant.**—A person in the service of Pakistan is guilty of an offence punishable with imprisonment for a term which may extend to two years, or with fine which may extend to two thousand rupees, or with both, if he misuses his official position in a manner calculated to influence the result of the election.

44. **Certain offences cognizable.**—Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), an offence punishable under section 41 shall be cognizable offence.

45. **Court proceedings relating to election expenses.**—The Commission shall direct an officer subordinate to it to launch proceedings in the appropriate court against persons who contravene the provisions of section 9 or fail to comply with the provisions of section 10.

46. **Court to report convictions to the Commission.**—A court convicting any person for an offence punishable under this Chapter, other than corrupt practice, shall send a report to the Commission of such conviction together with its recommendations, if any, considering the special circumstances of any case, for the mitigation or remission of any disqualification incurred by such person under this Act.

47. **Punishment under this Chapter not in derogation of any other Liability.**—Any punishment imposed on any person for an offence punishable under this chapter shall be in addition to, and not in derogation of, any liability incurred by such person under any other provision of this Act.

CHAPTER VII

DISQUALIFICATIONS

48. **Disqualifications.**—A person shall be disqualified from being elected as, and from being, a member of an Assembly, if :—

(a) he has been, on conviction for any offence, sentenced to imprisonment for a term of not less than two years, unless a period of five years has elapsed since his release ; or

(b) he has been dismissed or removed or compulsorily retired from the service of Pakistan, unless a period of five years has elapsed since his dismissal or removal or compulsory retirement ; or

(c) he, whether by himself or by any person in trust for him or for his benefit or on his account or as a member of a Hindu undivided family, has any share or interest in a contract, not being a contract between a co-operative society and Government, for the supply of goods to, or for the execution of any work or the performance of any service undertaken by Government:

Provided that the disqualification under this clause shall not apply to a person—

(i) where the share or interest in the contract devolves on him by inheritance or succession or as a legatee, executor or administrator, until the expiration of six months after it has so devolved on him; or

(ii) where the contract has been entered into by or on behalf of a public company as defined in the Companies Act, 1913 (VII of 1913), of which he is a share-holder but is neither a director nor a person holding an office of profit under the company nor a managing agent; or

(iii) where the contract entered into by him in the course of his trade or business with the Government for the supply of goods to, or for the execution of any work or the performance of any service undertaken by, that Government, does not subsist;

Explanation.—A contract shall not be deemed to subsist by reason only of the fact that the person was enrolled as a contractor with the Government or that the Government has not performed its part of the contract, either wholly or in part.

(iv) where he is a member of a Hindu undivided family and the contract has been entered into by any other member of that family in the course of carrying on a separate business in which he has no share or interest;

(d) he is a managing agent, manager or secretary of, or holds any other office carrying the right to remuneration in, any company or corporation (other than a cooperative society) in the capital of which the Government has not less than twenty-five per cent share or which is managed by the Government; or

(e) he is found guilty of a corrupt or illegal practice under any other law for the time being in force, unless a period of five years has elapsed from the date on which that order takes effect; or

(f) he holds any office of profit in the service of Pakistan other than the following offices, namely:—

(i) an office which is not a whole time office remunerated either by salary or by fee;

(ii) the office of Lambardar, whether called by this or any other title;

(iii) the Qaumi Razakars;

(iv) any office the holder whereof, by virtue of holding such office, is liable to be called up for military training or military service under any law providing for the constitution or raising of a force.

Explanation.—For the avoidance of doubt, it is hereby declared that a Judge of the Supreme Court or a High Court the Auditor-General and an Advocate-General are persons holding an office of profit in the service of Pakistan.

49. **Disqualification on account of certain offences.**—Where a person has been convicted for having exceeded the limit of election expenses laid down by section 9 or having failed to file the return of election expenses in accordance with section 10 or for any other offence under this Act or has been found guilty of any corrupt or illegal practice by a Tribunal, he shall, if the Commissioner makes an order to that effect, be disqualified, for such period not exceeding five years as may be specified in the order, from being, or being elected as, a member of an Assembly.

50. **Removal and remission of disqualification.**—The Commissioner may, on an application made in this behalf, remit any disqualification for failure to submit the return of election expenses or for any error or incorrect statement in such return, if he is satisfied that such failure or error occurred or incorrect statement was made due to circumstances beyond the control of the applicant.

CHAPTER VIII

MISCELLANEOUS

51. **Commission to ensure fair election, etc.**—Save as otherwise provided, the Commission may issue such instructions and exercise such powers, and make such consequential orders, as may, in its opinion, be necessary for ensuring that an election is conducted honestly, justly and fairly, and in accordance with the provisions of this Act and the rules.

52. **Directions of Commission in certain matters.**—Anything required to be done for carrying out the purpose of this Act for which no provision or no sufficient provision exists shall be done by such authority and in such manner as the Commission may direct.

53. **Jurisdiction of courts barred.**—No court shall question the legality of any action taken in good faith by or under the authority of the Commission or the Commissioner, or any decision given by the Commission or the Commissioner.

54. **Protection of action taken in good faith.**—No suit, prosecution or other legal proceeding shall lie against the Commission, the Commissioner or any officer or other person in respect of anything which is in good faith done or intended to be done under or in pursuance of this Act or of any rule or order made or any direction given thereunder.

55. **Power to make rules.**—The Commissioner may, with the approval of the President, make rules for carrying out the purposes of this Act.

56. **Commission to be construed as Commissioner in certain cases.**—For the purpose of holding an election to fill a casual vacancy in an Assembly, reference in this Act to the Commission shall be construed as referred to the Commissioner.

57. **Repeal.**—Chapter V of the National and Provincial Assemblies (Elections) Ordinance, 1970 (XIII of 1970), and the National and Provincial Assemblies (Elections to Reserved Seats) Ordinance, 1976 (VI of 1976), are hereby repealed.

Islamabad, the 26th April, 1976

The following Acts of Parliament received the assent of the President on the 19th April, 1976, and are hereby published for general information :—

ACT No. XIX OF 1976

An Act to declare the holders of the office of Adviser to the Governor not to be disqualified from being elected or chosen as, and from being, a member of Parliament or a Provincial Assembly ;

WHEREAS paragraph (d) of clause (1) of Article 63 read with Article 127 of the Constitution provides that a person holding any office of profit in the service of Pakistan may be declared by law not to be disqualified from being elected or chosen as, and from being, a member of Parliament or a Provincial Assembly ;

AND, WHEREAS, it is expedient in the public interest to declare that persons holding the office of Adviser to a Governor during certain period shall not be disqualified from being elected or chosen as, and from being, a member of Parliament or a Provincial Assembly ;

It is hereby enacted as follows :—

1. **Short title and commencement.**—(1) This Act may be called the Members of Parliament and Provincial Assemblies (Exemption of Advisers from Disqualification) Act, 1976.

(2) It shall come into force at once and shall be deemed to have taken effect on the thirty-first day of December, 1975.

2. **Adviser to Governor not to be disqulified.**—It is hereby declared that any person holding the office of Adviser to the Governor of a Province during the period—

(a) that an Order under paragraph (c) of clause (2) of Article 232 of the Constitution is in force whereby the Federal Government has assumed to itself, or directed the Governor of a Province to assume on its behalf, all or any of the functions of the Government of that Province ; or

(b) a Proclamation under Article 234 of the Constitution is in force ;

shall not be disqualified from being elected or chosen as, and from being, a member of Parliament or a Provincial Assembly.

3. **Repeal.**—The Members of Parliament and Provincial Assemblies (Exemption of Advisers from Disqualification) Ordinance, 1976 (I of 1976), is hereby repealed.

ACT No. XX OF 1976

An Act to withdraw the remission of sentences granted to, or earned by, certain prisoners

WHEREAS it is expedient to withdraw the remission of sentences granted to, or earned by, certain prisoners ;

It is hereby enacted as follows :—

1. **Short title and extent.**—(1) This Act may be called the Withdrawal of Remission of Sentences Act, 1976.

(2) It extends to the whole of Pakistan.

2. **Withdrawal of remission of sentences.**—Notwithstanding any remission of sentences granted to, or earned by, a prisoner awarded punishment by a Court Martial for an offence under section 55 or section 59 of the Pakistan Army Act, 1952 (XXXIX of 1952), or by any Court or Tribunal under the High Treason (Punishment) Act, 1973 (LXVIII of 1973), the Suppression of Terrorist Activities (Special Courts) Act, 1975 (XV of 1975), the Criminal Law Amendment (Special Court) Ordinance, 1975 (XXIX of 1975), under Chapter VI of the Pakistan Penal Code (Act XLV of 1860), or the Defence of Pakistan Rules, such prisoner shall undergo full term of his imprisonment and sentence and the remission shall be deemed to have never been granted or earned, irrespective of any other law or the judgement or order of any court.

3. **Repeal.**—The Punjab Withdrawal of Remission of Sentences Ordinance, 1976 (Punjab Ordinance No. II of 1976), and the Withdrawal of Remission of Sentences Ordinance, 1976 (X of 1976), are hereby repealed.

ACT No. XXI OF 1976

An Act further to amend the Law Reforms Ordinance, 1972

WHEREAS it is expedient further to amend the Law Reforms Ordinance, 1972 (XII of 1972), for the purposes hereinafter appearing ;

It is hereby enacted as follows :—

1. **Short title, extent and commencement.**—(1) This Act may be called the Law Reforms (Amendment) Act, 1976.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. **Amendment of Ordinance XII of 1972.**—The Law Reforms Ordinance, 1972 (XII of 1972), shall be amended to the extent and in the manner specified in the Schedule.

3. **Repeal.**—The Law Reforms (Amendment) Ordinance, 1975 (XXIV of 1975), and the Law Reforms (Amendment) Ordinance, 1976 (VIII of 1976), are hereby repealed.

THE SCHEDULE

(*See* section 2)

AMENDMENTS IN THE LAW REFORMS ORDINANCE, 1972

(XII OF 1972)

A. In section 1, in sub-section (2), after the word " specified ", the words " for different provisions and " shall be inserted.

B. After section 4, the following new section shall be added, namely :—

" 5. *Saving.*—Notwithstanding anything contained in this Ordinance,—

(a) the trial of a warrant case which was pending before a Magistrate immediately before the twenty-first day of December, 1975, and in which charge had been framed ; or

(b) any inquiry into a case triable by the Court of Session or High Court in which charge was framed, or in which the accused was committed for trial by the Court of Session or the High Court before the twenty-first day of December, 1975 ; shall be proceeded with and completed as if the provisions of the Schedule to this Ordinance relating to amendments in the Code of Criminal Procedure, 1898 (Act V of 1898), had not come into force :

Provided that any such case decided by a Magistrate, or any case in which the accused was committed for trial by the Court of Session or the High Court and decided by it, on or after the said twenty-first day of December, 1975, but before the commencement of the Law Reforms (Amendment) Ordinance, 1976, by following the procedure provided in the said Code as amended by this Ordinance, shall be deemed to have been validly decided.".

C. In the Schedule, in the provisions relating to amendments in the Code of Criminal Procedure, 1898 (Act V of 1898),—

1. after item 2, the following new item shall be inserted, namely :—

" 2A. In section 10, in sub-section (3), for the commas, figures, words and brackets " , 407, sub-section (2) and 528, sub-sections (2) and (3) " the words, figures, comma and brackets " and 407, sub-section (2) " shall be substituted." ;

2. after item 12, the following new item shall be inserted, namely :—

" 12A. In section 30, the words and comma " and the District of Sylhet," shall be omitted." ;

3. for item 15 the following shall be substituted, namely :—

" 15. In section 32, in sub-section (1),—

(i) for the words " two years " the words " three years " ; for the words " one thousand " the words " five thousand " ; for the words " six months " the words " one year " ; and for the words " two hundred " the words " one thousand " shall respectively be substituted ; and

(ii) for the word " Magistrate ", occurring for the first time, the words " Judicial Magistrate " shall be substituted. " ;

4. for item 22 the following shall be substituted, namely :—

" 22. In section 44,—

(i) for sub-section (1) the following shall be substituted, namely :—

' (1) Every person aware of the commission of, or of the intention of any other person to commit, any offence punishable under any of the following sections of the Pakistan Penal Code, namely, 121, 121A, 122, 123, 123A, 124, 124A, 125, 126, 130, 143, 144, 145, 147, 148, 153A, 161, 162, 163, 164, 165, 168, 170, 231, 232, 255, 302, 303, 304, 304A, 364A, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 456, 457, 458, 459, 460 and 489A, shall, in the absence of reasonable excuse, the burden of proving which shall lie upon the person so aware, forthwith give information to the nearest Magistrate or police-officer of such commission or intention. ' ; and

(ii) in sub-section (1) substituted as aforesaid, after the word " Magistrate ", the comma and words " , Justice of the Peace " shall be inserted. " ;

5. for item 32 the following shall be substituted, namely :—

" 32. After section 86, the following new section 86A shall be inserted, namely :—

' 86A. *Procedure for removal in custody to Tribal Area.*—Where a person arrested under section 85 is to be removed in custody to any place in the Tribal Areas, he shall be produced before a Magistrate within the local limits of whose jurisdiction the arrest was made, and such Magistrate in directing the removal shall hear the case in the same manner and have the same jurisdiction and powers, as nearly as may be, including the power to order the production of evidence, as if the person arrested were charged with an offence committed within the jurisdiction of such Magistrate ; and such Magistrate shall direct the removal of the arrested person in custody if he is satisfied that the evidence produced before him raises a strong or probable presumption that the person arrested committed the offence mentioned in the warrant. '.

32A. In section 86A, for the word ' Magistrate ', occurring for the first time, the words ' Judicial Magistrate ' shall be substituted. " ;

6. for item 36 the following shall be substituted, namely :—

" 36. In section 98,—

(i) in sub-section (1),—

(a) for the words and comma " or coin, or instruments or materials for counterfeiting coin or stamps " the commas and words ", bank notes, currency notes or coin or instruments or materials for counterfeiting coin, stamps, bank notes or currency notes " shall be substituted ;

(b) the commas and words ", if a District Magistrate, or a Sub-divisional Magistrate, upon information and after such inquiry as he thinks necessary, has reason to believe that any place is used " shall be omitted ;

(c) in clause (c), after the words " stamps ", the commas and words " , bank notes, currency notes " shall be inserted ;

(d) in clause (d), after the word and comma " stamps, " , the words and commas " bank notes, currency notes, " shall be inserted ; and

(e) in clause (e), after the word and comma " stamps, ", the words " , stamps, bank notes or currency notes " shall be inserted and for the words " or stamps " the commas and words " , stamps, bank notes or currency notes " shall be substituted ; and

(ii) in sub-section (2), for the words, figures and comma " section 19 of the Sea Customs Act, 1878 " the words, figures and comma " section 16 of the Customs Act, 1969 " shall be substituted. " ;

7. in item 37, the words, commas and figure " Press and Publications Ordinance, 1960, or the " shall be omitted ;

8. in item 43, in sub-item (ii), the words, commas and figure " the Press and Publications Ordinance, 1960, " shall be omitted ;

9. after item 58 the following new item shall be inserted, namely :—

" 58A. In section 146, in sub-section (2), for the words " Code of Civil Procedure " the words, comma and figure " Code of Civil Procedure, 1908 " shall be substituted. " ;

10. in item 70, for sub-item (ii) the following shall be substituted, namely :—

" (ii) in sub-section (2), for the words and comma " or the District Magistrate subject to the general or special orders of the Provincial Government, may " the words and commas " may, on the recommendation of the High Court, empower any Judicial Magistrate " shall be substituted ;

(iiA) in sub-section (2), for the words " commit for trial " the words " send to the Court of Session for trial " shall be substituted ; and

(iii) for sub-section (3) the following shall be substituted, namely :—

" (3) A Magistrate taking cognizance under sub-section (1) of an offence triable exclusively by a Court of Session shall, without recording any evidence, send the case to the Court of Session for trial. " ;

11. after item 70 amended as aforesaid, the following new item shall be inserted, namely :—

"70A. In section 191, for the word "committed" the word "sent" shall be substituted.";

12. after item 71, the following new item shall be inserted, namely :—

"71A. In section 192, in sub-section (2), for the words "commit him" the words "send him to the Court of Session" shall be substituted.";

13. for item 78 the following shall be substituted, namely :—

"78. In section 200, in clause (a) of the proviso, after the word and figure 'section 192', the comma and words ', or sending it to the Court of Session' shall be added.";

14. for item 79 the following shall be substituted, namely :—

"79. For section 202 the following shall be substituted, namely :—

'202. *Postponement of issue of process.*—(1) Any Court, on receipt of a complaint of an offence of which it is authorised to take cognizance, or which has been sent to it under section 190, sub-section (3), or transferred to it under section 191 or section 192, may, if it thinks fit, for reasons to be recorded, postpone the issue of process for compelling the attendance of the person complained against, and either inquire into the case itself or direct an inquiry or investigation to be made by a police-officer, or by such other person as it thinks fit, for the purpose of ascertaining the truth or falsehood of the complaint :

Provided that, save where the complaint has been made by a Court, no such direction shall be made unless the complainant has been examined on oath under the provisions of section 200.

(2) A Court of Session may, instead of directing an investigation under the provisions of sub-section (1), direct the investigation to be made by any Magistrate subordinate to it for the purpose of ascertaining the truth or falsehood of the complaint.

(3) If any inquiry or investigation under this section is made by a person not being a Magistrate, or a police-officer, such person shall exercise all the powers conferred by this Code on an officer-in-charge of a police-station, except that he shall not have power to arrest without warrant.

(4) Any Court inquiring into a case under this section may, if it thinks fit, take evidence of witnesses on oath,'.

79A. In section 202 substituted as aforesaid,—

(i) in sub-section (1), after the words 'made by', the words and comma 'any Justice of the Peace, or by' shall be inserted; and

(ii) in sub-section (3), after the word and comma "Magistrate,", the words "or Justice of the Peace" shall be inserted.

79B. In section 203,—

(i) for the word "Magistrate" the word "Court" shall be substituted; and

(ii) after the word "transferred", the words "or sent" shall be inserted.";

15. after item 85, the following new items shall be inserted, namely:—

"85A. In section 228, the words and figure "section 226 or" shall be omitted.

85B. In section 232, in sub-section (1), after the words "High Court", the comma and words ", or the Court of Session" shall be inserted.";

16. after item 95, the following new item shall be inserted, namely:—

"95A. In section 247, in the proviso, for the full stop at the end a colon shall be substituted and thereafter the following further proviso shall be added, namely:—

'Provided further that nothing in this section shall apply where the offence of which the accused is charged is either cognizable or non-compoundable.'";

17. in item 100, in sub-item (ii), for the words "two hundred and fifty rupees" the words "two thousand and five hundred rupees" shall be substituted;

18. for item 103 the following shall be substituted, namely:—

"103. For section 264 the following shall be substituted, namely:—

'264. *Record in appealable cases.*—In every case tried summarily by a Magistrate or Bench in which an appeal lies, such Magistrate or Bench shall record the substance of the evidence and also the particulars mentioned in section 263 and shall, before passing any sentence, record a judgment in the case.'.";

19. in item 112, sub-item (i) shall be omitted;

20. after item 139, the following new item shall be inserted, namely:—

"139A. In section 407, in sub-section (1), the words and figure 'or in respect of whom an order has been made, or a sentence has been passed under section 380 by a Sub-divisional Magistrate of the second class' shall be omitted.";

21. after item 150, the following new item shall be inserted, namely:—

"150A. In section 436, the comma, words and colon ", or into the case of any person accused of an offence who has been discharged:" and the proviso shall be omitted.";

22. for item 152 the following shall be substituted, namely:—

"152. Section 437 shall be omitted.

152A. In section 438, the words " Sessions Judge or " shall be omitted.

152B. Section 438, amended as aforesaid, shall be omitted. " ;

23. in item 157, for the words " five hundred rupees " the words " one thousand rupees " shall be substituted ;

24. after item 165, the following new item shall be inserted, namely :—

" 165A. In section 508, the words ' other than Pakistan ' shall be omitted. " ;

25. in item 167, for the words and commas " and shall, if so requested by any party to such inquiry, trial or proceeding " the words " if it considers necessary in the interest of justice " shall be substituted ;

26. in item 172,—

(i) in sub-item (i), for the brackets and letter ' (c) ' the brackets and letter ' (e) ' shall be substituted ; and

(ii) for sub-item (iv) the following shall be substituted, namely :—

" (iv) for sub-sections (8) and (9) the following shall be substituted, namely :—

' (8) In an inquiry under Chapter VIII or any trial, the fact that any party intimates to the Court at any stage that he intends to make an application under this section shall not require the Court to adjourn the case ; but the Court shall not pronounce its final judgment or order until the application has been finally disposed of by the High Court and, if the application is accepted by the High Court, the proceedings taken by the Court subsequent to the intimation made to it shall, at the option of the accused, be held afresh.' ; " ;

27. for item 173 the following shall be substituted, namely :—

" 173. In section 528,—

(i) after sub-section (1B), the following new sub-section (1C) shall be inserted, namely :—

' (1C) Any Sessions Judge may withdraw any case from, or recall any case which he has made over to, any Magistrate subordinate to him, and may refer it for inquiry or trial to any other such Magistrate competent to inquire into or try the same.

Explanation.—All Magistrates shall be deemed to be subordinate to the Sessions Judge for the purposes of this sub-section. ' ;

(ii) sub-sections (2) and (3) shall be omitted ; and

(iii) in sub-section (5), for the word " section ", the words " preceding sub-section " shall be substituted. " ;

28. for item 185 the following shall be substituted, namely :—

" 185. In section 565, in sub-section (1),—

(i) the commas and words ', District Magistrate, Sub-divisional Magistrate ' shall be omitted ; and

(ii) the words 'transportation or' shall be omitted.".

29. after item 197, the following new item shall be inserted, namely :—

"197A. In section 146, in the margin, for the figures and word 'XIV of 1882' the figures and word 'V of 1908' shall be substituted.";

30. after item 201, the following new item shall be inserted, namely :—

"201A. In section 350, in the margin, the words 'or commitment' shall be omitted.";

31. in item 211, for sub-item (v) the following shall be substituted, namely :—

"(v) in Part V, under the heading 'Ordinary Powers of a District Magistrate',—

(a) items (la), (9), (9a), (10), (11) and (14) shall be omitted;

(b) items (7), (8) and (13) shall be omitted;

(c) in item (12), the words 'or case of accused discharged' shall be omitted; and

(d) item (12), amended as aforesaid, shall be omitted."; and

32. in item 210, sub-item (v) shall be omitted.

ACT No. XXII OF 1976

An Act to amend certain laws in pursuance of clause (4) of Article 8 of the Constitution of the Islamic Republic of Pakistan.

WHEREAS it is necessary to amend certain laws in pursuance of clause (4) of Article 8 of the Constitution of the Islamic Republic of Pakistan ;

It is hereby enacted as follows :—

1. **Short title, extent and commencement.**—(1) This Act may be called the Conformity with Fundamental Rights (Amendment of Laws) Act, 1976.

(2) It extends to the whole of Pakistan, except the provisions of the Schedule relating to amendments in the Privately Managed Schools and Colleges (Taking Over) Regulation, 1972, which shall extend only to the Federal Capital.

(3) It shall come into force at once.

2. **Amendment of certain laws.**—The laws specified in the Schedule are hereby amended to the extent and in the manner specified in the second column thereof.

3. **Repeal.**—The Conformity with Fundamental Rights (Amendment of Laws) Ordinance, 1976 (IX of 1976), is hereby repealed.

THE SCHEDULE

(*See* section 2)

Laws amended	Amendments made
1	2
The Criminal Law Amendment (Special Court) Order, 1972 (P.O. No. 20 of 1972).	In Article 3, in clause (1), for the full stop at the end a colon shall be substituted and thereafter the following proviso shall be added, namely :— " Provided that no such notification shall be issued after the thirteenth day of February, 1976.".
The Privately Managed Schools and Colleges (Taking Over) Regulation, 1972.	1. In paragraph 2,— (*a*) in clause (b), for the words " maintained and " the words and comma " owned, maintained or " shall be substituted ; and (*b*) in clause (c), for the words " maintained and " the words and comma "owned, maintained or " shall be substituted. 2. For paragraph 3 the following shall be substituted, namely:— " 3 (1) Except with the prior permission of the Federal Government and subject to such conditions as it may, in the public interest, impose, no person who owns or manages any privately managed college or privately managed school shall close such college or school or suspend its working or in any manner transfer any property of, or attached to, such college or school or any interest therein. (2) Any contract or agreement made or entered into at any time on or after the fifteenth day of March, 1972, in contravention of the provisions of sub-paragraph (1) shall be void.". 3. In paragraph 5, for the full stop at the end a colon shall be substituted and thereafter the following proviso shall be added, namely :— " Provided that no such notification shall be issued in respect of a privately managed school unless the Federal Government is satisfied that such school cannot be run on a

1	2
	4. In paragraph 6,— (*a*) in sub-paragraph (1), after the word " it " at the end, the commas and words ", except with the prior permission of the Federal Government and subject to such conditions as it may, in the public interest, impose " shall be added ; and (*b*) in sub-paragraph (2), for the words " All changes " the words, brackets, figure and comma " Subject to the provisions of sub-paragraph (1), any change " shall be substituted. 5. In paragraph 7, in sub-paragraph (1), in clause (b),— (*a*) after the brackets, figure and comma "(2),", the words and comma " or except with the prior permission of the Federal Government, " shall be inserted ; and (*b*) for the full stop at the end a colon shall be substituted and thereafter the following proviso shall be added, namely :— " Provided that, with the general or special permission of the Federal Government, any person may be promoted, employed or engaged, on such terms and conditions as may be approved by the Federal Government, against a newly-created post or a vacancy caused by the retirement, or expiry of the stipulated period of employment, or termination of services in accordance with the terms and conditions of his employment, of a person who was employed or engaged before the fifteenth day of March, 1972.". 6. In paragraph 12, for the word " and " the word " or " shall be substituted.
The Trade Organizations Ordinance, 1961 (XLV of 1961).	1. In section 3, in sub-section (6), for the full stop at the end a colon shall be substituted and thereafter the following proviso shall be added, namely :— " Provided that no such exemption shall be granted to a trade organization unless the appropriate Government is satisfied that it would be in the public interest to do so.".

1	2
	2. In section 4, in sub-section (1), in clause (c), for the full stop at the end a colon shall be substituted and thereafter the following proviso shall be added, namely :— " Provided that no licence shall be revoked under clause (a), and no such exemption shall be cancelled, unless the appropriate Government is satisfied that it would be in the public interest to do so.".
The Censorship of Films Act, 1963 (XVIII of 1963).	1. In the preamble, for the words and commas " law and order, or in the interest of local film industry, or in any other national interest " the Words and commas " the glory of Islam or the integrity, security or defence of Pakistan or any part thereof, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court or commission of, or incitement to, an offence " shall be substituted.
	2. In section 4, in sub-section (5), after the word " if ", the commas and words ", in the interest of the glory of Islam or the integrity, security or defence of Pakistan or any part thereof, friendly relations with foreign States, public order, decency of morality, or in relation to contempt or court or commission of, or incitement to, an offence, shall be inserted.
	3. In section 5, after sub-section (5), the following new sub-section shall be added, namely :— " (6) No order shall be made by an authority under clause (b) of sub-section (1), or by a District Magistrate under sub-section (2), or by the Federal Government under sub-section (4) or sub-section (5), unless the authority, the District Magistrate or the Federal Government, as the case may be, is satisfied that it is necessary to do so in the interest of the glory of Islam or the integrity, security or defence of Pakistan or any part thereof, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court or commission of, or incitement to, an offence.".

1	2
	4. In section 7, for the words and commas " law and order, or in the interest of local film industry, or in any other national interest " the words and commas " the glory of Islam or the integrity, security or defence of Pakistan or any part thereof friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court or commission of, or incitement to, an offence " shall be substituted.

ACT NO. XXIII OF 1976

An Act to establish a National Insurance Corporation

WHEREAS it is expedient to establish a National Insurance Corporation and to provide for matters connected therewith or incidental thereto;

It is hereby enacted as follows :—

1. **Short title, extent and commencement.**—(1) This Act may be called the National Insurance Corporation Act, 1976.

(2) It extends to the whole of Pakistan, and applies to all public property wherever it may be.

(3) It shall come into force at once.

2. **Definitions.**—In this Act, unless there is anything repugnant in the subject or context,—

(1) " Chairman " means the Chairman of the Corporation ;

(2) " Corporation " means the National Insurance Corporation established under section 3 ;

(3) " Board " means the Board of Directors of the Corporation ;

(4) " company " has the same meaning as in the Companies Act, 1913 (VII of 1913) ;

(5) " Fund " means the National Insurance Fund established by the Government of Pakistan on the first day of July, 1973 ;

(6) " public property " means—

(*a*) any property, movable or immovable, which belongs to, or the safety of which is the legal responsibility of,—

(i) the Government or a local authority or statutory corporation ; or

(ii) any company, firm, undertaking, institution, organization or other establishment which is managed or controlled by the Government or a local authority or statutory corporation or in which the Government, by itself or jointly with a local authority or statutory corporation or company in which the Government, by itself or jointly with a local authority or corporation or company managed or controlled by it, holds controlling financial share or interest or which is specified by the Federal Government for the purposes of this clause ; and

(b) a project financed out of an external loan, or with external aid until it reaches—

(i) in the case of an industrial project, the stage at which it is capable of commencing normal production ; and

(ii) in the case of any other project, the stage at which it is capable for being put to the use for which it is intended ;

(7) " regulations " means regulations made under section 26 ;

(8) " rules " means rules made under section 25 ;

(9) " statutory corporation " means a body corporate, other than a company, established or set up by the [* * *] Government in pursuance of any law ; and

(10) all words and phrases used but not defined in this Act shall have the same meaning as in the Insurance Act, 1938 (IV of 1938).

3. **Establishment and incorporation of the Corporation.**—(1) As soon as may be after the commencement of this Act, the Federal Government shall, by notification in the official Gazette, establish a corporation for the purposes of this Act.

(2) The Corporation shall be a body corporate to be called the National Insurance Corporation, having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire and hold property both movable and immovable and shall by the said name sue and be sued.

(3) The Head Office of the Corporation shall be at such place as the Federal Government may, by notification in the official Gazette, specify.

(4) The Corporation may establish such regional and other offices as it thinks fit.

4. **Capital.**—The initial capital of the Corporation shall be provided wholly by the Federal Government which shall determine the amount of such capital and the conditions upon which it is to be provided.

5. **Management.**—(1) The general direction and administration of the affairs and business of the Corporation shall be vested in a Board of Directors which shall consist of—

(a) a Chairman to be appointed by the Federal Government, who shall also be the chief executive of the Corporation ; and

(b) such number of Directors as the Federal Government may, from time to time, appoint.

(2) In the discharge of any of the functions of the Corporation, the Board shall act, as far as possible, on business considerations consistently with the interests of the Government, the statutory corporations and the other bodies referred to in paragraph (ii) of sub-clause (a) of clause (6) of section 2.

(3) The Chairman shall be responsible for the management of the affairs and business of the Corporation and, in addition, exercise such powers and perform such functions as may be prescribed by regulations or as may be assigned to him by the Board.

(4) The terms of appointment of the Chairman and a Director shall be such as may be determined by the Federal Government from time to time.

(5) The Chairman and a Director shall hold office during the pleasure of the Federal Government.

(6) The Federal Government may, from time to time, give such directions to the Board and the Chairman as it may deem fit.

6. **Disqualification.**—No person shall be, or shall continue to be, the Chairman or a Director if he—

(*a*) is, or at any time has been, adjudicated an insolvent ;

(*b*) is found to be a lunatic or of unsound mind ;

(*c*) is, or at any time has been, convicted of an offence which in the opinion of the Federal Government is an offence involving moral turpitude ;

(*d*) not being a government official, is for the time being disqualified from holding any public office or from being a member of an elective body under any law for the time being in force ; or

(*e*) is a minor.

7. **Declaration of fidelity and secrecy.**—The Chairman and every Director, auditor, officer or servant of the Corporation shall, before entering upon his duties, make a declaration of fidelity and secrecy in the form set out in the Schedule.

8. **Delegation of powers.**—The Board may, for the purpose of ensuring efficient functioning of the Corporation and facilitating transaction of its daily business, by a resolution, delegate to the Chairman, subject to such conditions, if any, as may be specified therein, such of its powers and duties under this Act as it may deem necessary.

9. **Functions of the Corporation.**—Subject to the provisions of this Act, the Corporation may transact the following kinds of business, namely :—

(*a*) undertaking general insurance business relating to any public property or to any risk or legal liability appertaining to the use of any public property, including execution of bonds, guarantees and other instruments of indemnity and granting of personal accident insurance to the directors, officers or employees of Government, statutory corporations and other bodies referred to in paragraph (ii) of sub-clause (a) of clause (6) of section 2, but excluding life insurance business ;

(*b*) undertaking general insurance business relating to any risk or legal liability appertaining to the use of public property, including execution of bonds, guarantees and other instruments of indemnity and granting of personal accident insurance to the directors, officers or employees thereof but excluding life insurance business ;

(*c*) advising the Government, statutory corporations and other bodies referred to in paragraph (ii) of sub-clause (a) of clause (6) of section 2 on any matter relating to insurance including measures to minimum wastage arising from causes which are usually insured against and to reduce the cost of insurance ;

(*d*) undertaking such other general insurance business relating to other properties and interests as the Federal Government may from time to time authorise the Corporation to undertake ;

(*e*) subject to the provisions of section 13, reinsuring or counter-reinsuring any risk and undertaking all kinds of reinsurance and counter-reinsurance connected with any business aforesaid ;

(*f*) conducting or managing the business relating to any Scheme or undertaking any functions connected with general insurance business which the Federal Government may entrust to the Corporation from time to time ;

(*g*) borrowing or raising any money in such manner and upon such security as the Corporation may think fit; and

(*h*) generally all matters and things incidental or subsidiary to, or consequential upon, the exercise of its powers or the performance of its functions under this Act.

10. **Public property to be insured with the Corporation only.**—(1) All insurance business relating to any public property, or to any risk or liability appertaining to any public property, shall be placed with the Corporation and with no other insurer:

Provided that the marine insurance relating to goods the import of which is financed out of an external loan, or with external aid, may, at the option of the importer, be placed with any insurer authorised to do marine insurance business in the country giving the loan or aid.

(2) Any policy of insurance taken or issued in contravention of sub-section (1) shall be void :

Provided that any claim for loss, damage, compensation or refund of premium arising out of, or relating to, such policy shall binding on the insurer :

Provided further that any such policy operative immediately before the establishment of the Corporation, or a policy relating to any property, or to any risk or liability appertaining to any property, taken before such property becomes public property, shall, unless earlier determined in accordance with the terms thereof, continue in force for the term for which it had been originally issued.

11. **Insurance of other properties permissible.**—Nothing in section 10 shall be construed as precluding the Corporation from accepting reinsurance relating to any property or risk from the Pakistan Insurance Corporation under any of the pooling arrangements devised by that Corporation.

12. **Taking over assets and liabilities of the Fund.**—The business, assets and liabilities, including bank accounts, deposits, securities and rights, of the Fund operating immediately before the establishment of the Corporation shall, on such establishment stand transferred to and vest in the Corporation.

13. **Reinsurance business.**—The Corporation shall reinsure with the Pakistan Insurance Corporation, on generally acceptable terms and conditions, such portion of its insurance business as it cannot retain on its own account.

14. **Disputes arising under policies, etc.**—(1) Where any dispute arises under a policy, or over a claim under a policy, issued by the Corporation, any party to the dispute may make an application to the Federal Government.

(2) The Federal Government shall, as soon as possible, constitute for the purpose of deciding disputes referred to in sub-section (1), or any particular dispute, a Dispute Settlement Committee consisting of such members, including a Chairman, as it may think fit.

(3) The decision of a Dispute Settlement Committee on an application shall be final and shall not be called in question in any court.

15. **Transfer of service of existing employees.**—(1) Every wholetime employee of the Pakistan Insurance Corporation who was mainly engaged on the business of the Fund and who had continuously served in connection with the business of

the Fund for a period of not less than six months immediately before the establishment of the Corporation under sub-section (1) of section 3 shall, on such establishment, become an employee of the Corporation and shall hold office therein on the same terms and conditions, including remuneration, tenure of office, rights, perquisities, privileges and obligations as to Gratuity, Provident Fund, Group Insurance and other matters, as were applicable to him immediately before such establishment :

Provided that the Federal Government shall be the sole judge as to whether any person employed in the Pakistan Insurance Corporation was or was not mainly engaged on the business of the Fund.

(2) The Pakistan Insurance Corporation shall pay to the Corporation, as soon as possible, the amount of Provident Fund, Gratuity Fund and other funds, credits or assets relating to the employees referred to in sub-section (1).

16. **Investment of moneys.**—The Corporation may invest its moneys in such manner as the Board may deem fit.

17. **Bank account.**—The Corporation may open current or deposit accounts in such banks as may be approved by the Board from time to time, subject to any general or special instructions of the Federal Government.

18. **Accounts.**—The accounts relating to the transactions connected with the business of the Corporation shall be maintained, and the annual Revenue Account, Profit and Loss Account, Profit and Loss Appropriation Account and Balance sheet shall be prepared, by the Corporation in the forms set forth in the Schedules to the Insurance Act, 1938 (IV of 1938).

19. **Disposal of profits.**—If, after meeting all claims and expenses, and after making appropriations and providing for the Premium Reserve, Reserve for Outstanding Claims, Exceptional Loss Reserve, General and Contingency Reserves and such other reserves as may be approved by the Federal Government, there remains a surplus in the profit and loss account of the Corporation for any year, such surplus shall be credited to the revenues of the Federation.

20. **Audit.**—(1) The accounts of the Corporation shall be audited by not less than two auditors, being chartered accountants within the meaning of the Chartered Accountants Ordinance, 1961 (X of 1961), who shall be appointed by the Federal Government on such remuneration as may be determined by it.

(2) Notwithstanding anything contained in sub-section (1), the Auditor-General of Pakistan may at any time of his own motion, and shall when required by the Federal Government so to do, undertake such audit of the accounts of the Corporation as the Auditor-General or, as the case may be, the Federal Government, may consider necessary.

(3) Every auditor in the performance of his duties shall have at all reasonable times access to the books of accounts and other documents of the Corporation.

(4) The auditors shall, in the audit of accounts, have the powers of, exercise the functions vested in, and discharge the duties, and the subject to the liabilities and penalties, imposed on, auditors of companies under the law for the time being in force relating to companies.

21. **Returns.**—The Corporation shall furnish to the Federal Government—

(*a*) annually a report giving an account of its activities and performance during the year, an account of the activities and plans, if any, which are likely to be undertaken by the Corporation during the year next following the year to which the report relates together with statements of revenue and profit and loss accounts as audited, and the audited balance-sheet, for the year, within six months after the close of the year ; and

(*b*) such other reports, statements and returns in respect of the working of the Corporation, at such intervals, as the Federal Government may, from time to time require.

22. **Liquidation of the Corporation.**—The Corporation shall not be wound up save by order of the Federal Government and in such manner as it may direct.

23. **Advisory Committee.**—The Corporation may appoint an Advisory Committee consisting of the representatives of the departments of Government and the statutory corporations to advise it on any of the aspects of its working.

24. **Application of Insurance Act, 1938 (IV of 1938).**—Such provisions of the Insurance Act, 1938 (IV of 1938), shall apply to the Corporation as may be specified by the Federal Government by notification in the official Gazette, and while issuing such a notification the Federal Government may direct that any such provision shall, in its application to the Corporation, have effect subject to such exception and modifications as may be specified in the notification.

25. **Powers to make rules.**—The Federal Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

26. **Power to make regulations.**—The Board may, with the approval of the Federal Government, make regulations not inconsistent with this Act or the rules to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Act.

27. **Removal of difficulties.**—If any difficulty arises in giving effect to any of the provisions of this Act, the Federal Government may make such order, not inconsistent with the provisions of this Act, as may appear to it to be necessary for the purpose of removing the difficulty :

Provided that no such power shall be exercised after the expiry of one year from the commencement of this Act.

28. **Repeal.**—The National Insurance Corporation Ordinance, 1975 (XXV of 1975), is hereby repealed.

THE SCHEDULE

(*See* section 7)

I,...hereby declare that I will faithfully, truly and to the best of my judgement, skill and ability, execute and perform the duties required of me as the Chairman, or a Director, Officer, servant or auditor (as the case may be) of the National Insurance Corporation and which properly relate to any office or position in the said Corporation held by me.

I further declare that I will not communicate or allow to be communicated to any person not legally entitled thereto any information relating to the affairs of the Corporation nor will I allow any such person to inspect or have access to any books or documents belonging to or in the possession of the Corporation and relating to the business of the Corporation.

Signed before me *Signature*......................

Signature..........................

Designation..........................

Date......................

ACT No. XXIV OF 1976

An Act to amend the Defence of Pakistan Ordinance, 1971

WHEREAS it is expedient to amend the Defence of Pakistan Ordinance, 1971 (XXX of 1971), for the purposes hereinafter appearing ;

AND WHEREAS the Proclamation of Emergency referred to in Article 280 of the Constitution of the Islamic Republic of Pakistan is in force ;

It is hereby enacted as follows :—

1. **Short title and commencement.**—(1) This Act may be called the Defence of Pakistan (Amendment) Act, 1976.

(2) It shall come into force at once.

2. **Amendment of section 8, Ordinance XXX of 1971.**—In the Defence of Pakistan Ordinance, 1971 (XXX of 1971), hereinafter referred to as the said Ordinance, in section 8, in sub-section (1),—

(*i*) after the word and comma "Pakistan, ", the words and commas "and a Provincial Government may, if so authorised by the Federal Government, for the whole or any part of its Province" shall be inserted ; and

(*ii*) the words "appointed by the Federal Government" shall be omitted.

3. **Substitution of section 9, Ordinance XXX of 1971.**—In the said Ordinance, for section 9 the following shall be substituted, namely :—

"9. **Jurisdiction of Special Tribunals.**—Where the Federal or a Provincial Government constitutes a Special Tribunal for any area, it shall, notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), have exclusive jurisdiction to try all offences under any rule made under section 3 specified in the notification constituting the Tribunal which are committed within the local limits of the jurisdiction of the Tribunal. ".

3A. **Amendment of section 10, Ordinance XXX of 1971.**—In the said Ordinance, in section 10, in sub-section (8), the word "warrant" shall be omitted.

4. **Repeal.**—The Defence of Pakistan (Amendment) Ordinance, 1976 (III of 1976), is hereby repealed.

MUHAMMAD ILYAS,
Additional Secretary.

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ISLAMABAD, FRIDAY, MAY 7, 1976

PART I

Acts, Ordinances, President's Orders and Regulations

NATIONAL ASSEMBLY OF PAKISTAN

Islamabad, the 7th May, 1976

The following Act of Parliament received the assent of the President on the 4th May, 1976, and is hereby published for general information :—

ACT No. XXV OF 1976

An Act further to amend the Railways Act, 1890

WHEREAS it is expedient further to amend the Railways Act, 1890 (IX of 1890), for the purposes hereinafter appearing ;

It is hereby enacted as follows :—

1. **Short title and commencement.**—(1) This Act may be called the Railways (Amendment) Act, 1976.

(2) It shall come into force at once.

2. **Amendment of section 66, Act IX of 1890.**—In the Railways Act, 1890 (IX of 1890), hereinafter referred to as the said Act, in section 66, after the words "be supplied", the words "by a railway servant or an agent authorised by the railway administration in this behalf" shall be inserted.

3. **Substitution of section 70, Act IX of 1890.**—In the said Act, for section 70 the following shall be substituted, namely :—

> "70. *Prohibition against transfer of certain tickets.*—A ticket against which reservation of a seat or berth has been made, or a return ticket or season ticket, shall not be transferable and may be used only by the person for whose journey to and from the places specified thereon it was issued :

Price : Ps. 9

Provided that nothing herein shall prevent mutual transfer of seats or berths reserved against a proper ticket by passengers travelling by the same train.".

4. **Substitution of section 114, Act IX of 1890.**—In the said Act, for section 114 the following shall be substituted, namely :—

"114. *Penalty for transfer of tickets.*—If a person, not being a railway servant or an agent authorised by the railway administration in this behalf,—

(a) sells or attempts to sell any ticket or any half of a return ticket, or

(b) parts or attempts to part with the possession of a ticket against which reservation of a seat or berth has been made, or any half of a return ticket or season ticket,

in order to enable any other person to travel therewith, he shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.".

5. **Amendment of section 133, Act IX of 1890.**—In the said Act, in section 133, for the words "whose powers are not less than those of a Magistrate of the second class" the words "of the first class" shall be substituted.

6. **Insertion of new section 133A, Act IX of 1890.**—In the said Act, after section 133, amended as aforesaid, the following new section shall be inserted, namely :—

"133A. *Certain railway servants to have powers of Magistrate.*—Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), or in section 133, any railway servant, not inferior in rank to a railway servant in Grade 17 of the National Pay Scales, who is authorised by the Federal Government in this behalf may exercise the powers of a Magistrate of the first class under the said Code, in respect of offences punishable under section 112, section 114, or section 116 :

Provided that such railway servant shall have authority to award a sentence of fine only.".

M. A. HAQ,
Secretary.

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PART I

Acts, Ordinances, President's Orders and Regulations

NATIONAL ASSEMBLY SECRETARIAT

Islamabad, the 18th May, 1976

The following Acts of Parliament received the assent of the President on the 11th May, 1976, and are hereby published for general information :—

ACT No. XXVI OF 1976

An Act to provide for the regulation and control of the profession of tourist guides

WHEREAS it is necessary and expedient to provide for the regulation and control of the profession of tourist guides ;

It is hereby enacted as follows :—

1. **Short title, extent and commencement.**—(1) This Act may be called the Pakistan Tourist Guides Act, 1976.

(2) It extends to the whole of Pakistan and applies to all tourist guides wherever they may be.

(3) It shall come into force at once.

2. **Definitions.**—In this Act, unless there is anything repugnant in the subject or context,—

(a) " Committee " means the Tourist Guide Regulatory Committee set up under section 3 ;

(b) " licence " means licence issued under section 4 ;

(c) " prescribed " means prescribed by rules ;

(d) " rules " means rules made under this Act ; and

(e) " tourist guide " means a person licensed as such under section 4.

Price : Ps. 87

3. **Committee.**—(1) As soon as may be after the commencement of this Act, the Federal Government shall set up a committee to be known as the Tourist Guide Regulatory Committee consisting of a Chairman and such other members as the Federal Government may appoint.

(2) The Chairman and other members of the Committee shall hold office during the pleasure of the Federal Government on such terms and conditions as the Federal Government may determine.

(3) The Committee shall perform the following functions, namely:—

(a) advise the Federal Government in the implementation of the provisions of this Act and the rules;

(b) assist the Federal Government in the preparation of the code of conduct for tourist guides; and

(c) such other functions as are in consonance with provisions of this Act and which the Federal Government may entrust to it.

4. **Licensing of tourist guides.**—(1) Any person operating or intending to operate as tourist guide shall apply to the Federal Government on the prescribed form for grant of a licence.

(2) On receipt of an application under sub-section (1), the Federal Government may, after holding the prescribed tests and on payment of the prescribed fee by the applicant, issue to the applicant, if he qualifies in such tests, a licence in the prescribed form.

(3) The Federal Government shall maintain a register in which the names and addresses of all tourist guides shall be entered.

(4) The licence shall, unless earlier suspended or cancelled under section 6, remain valid for a period of three years and may be renewed after every three years in the prescribed manner on payment of the prescribed fee.

5. **Code of conduct.**—The Federal Government shall, in consultation with the Committee, prescribe a code of conduct for tourist guides.

6. **Suspension or cancellation of licence.**—(1) The Federal Government may, after affording a tourist guide an opportunity of showing cause against the action proposed to be taken against him, suspend or cancel the licence of the tourist guide if he—

(a) violates the terms and conditions of the licence; or

(b) violates the code of conduct.

(2) (a) A tourist guide aggrieved by the decision or order under sub-section (1) of an officer or authority other than the Federal Government may prefer an appeal to the Federal Government within the prescribed time and in the prescribed manner and the orders of the Federal Government in such appeal shall be final.

(b) The Federal Government may at any time of its own motion or on an application of any tourist guide aggrieved by any decision or order passed by the Federal Government under this Act or the rules, within the prescribed time and in the prescribed manner, pass such order as it think fit:

Provided that no order against a tourist guide shall be passed unless he has been given an opportunity of showing cause against it and of being heard.

7. **Prohibition to act as a tourist guide.**—Except as otherwise provided in the Act, no person shall hold himself out or act, as a tourist guide unless he holds a licence.

8. **Service charges of tourist guides.**—(1) The Federal Government shall, from time to time by notification in the official Gazette, fix the maximum rates of charges to which a tourist guide shall be entitled for the services rendered by him.

(2) A tourist guide shall not demand from any person to whom he has rendered any service as such any amount in excess of the maximum charges fixed under sub-section (1) for that service.

(3) The guides employed on a fixed salary on a wholetime basis by any travel agency licensed under a law for the regulation and control of the profession of travel and tourist agencies shall not charge any fee from a tourist.

9. **Penalty and procedure.**—(1) Whoever—

(a) being a person to whom no licence has been issued, or

(b) being a person whose licence has been cancelled or is for the time being suspended,

holds himself out, or acts, as a tourist guide or otherwise contravenes the provisions of this Act or the rules or, being a tourist guide, contravenes the terms or conditions of the licence issued to him or of a notification issued under sub-section (1) of section 8, or violates the prescribed code of conduct, shall be punishable with fine which may extend to five hundred rupees.

(2) Any Magistrate for the time being empowered to try in a summary way the offences specified in sub-section (1) of section 260 of the Code of Criminal Procedure, 1898 (Act V of 1898), may try summarily an offence punishable under this Act in accordance with the provisions of Chapter XXII of that Code.

(3) No court shall take cognizance of an offence punishable under this Act except upon a complaint made in writing by or under the authority of the Federal Government.

10. **Power to exempt.**—The Federal Government may exempt any class of persons from the operation of all or any of the provisions of this Act, subject to such conditions, if any, as it may deem fit.

11. **Delegation of powers.**—The Federal Government may, by notification in the official Gazette, direct that all or any of its powers under this Act shall, under such conditions, if any, as may be specified, be exercisable also—

(a) by an officer or authority subordinate to the Federal Government, or

(b) by a Provincial Government or any Officer or authority subordinate to such Government.

12. **Power to make rules.**—(1) The Federal Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(a) the fees payable for the issue and renewal of a licence ;

(b) the form in which an application for a licence is to be made ;

(c) the form of the licence ;

(d) the code of conduct ; and

(e) the conditions to which a licence shall be subject.

ACT No. XXVII OF 1976

An Act to provide for the establishment of Pakistan Study Centres in the Universities for the study of languages, literature, social structure, customs, attitudes and motivation, of the people of various regions of Pakistan.

WHEREAS it is expedient for national cohesion, to provide for the establishment of Pakistan Study Centres in the Universities for the study of languages, literature, social structure, customs, attitudes and motivation, of the people of various regions of Pakistan ;

It is hereby enacted as follows :—

1. **Short title, extent and commencement.**—(1) This Act may be called the Pakistan Study Centres Act, 1976.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. **Definitions.**—In this Act unless there is anything repugnant in the subject or context,—

(a) "Board" means a Board of Governors referred to in sub-section (1) of section 6 ;

(b) "Centre" means a Pakistan Study Centre established under section 3 and, except in that section and section 4, includes the Institute ;

(c) "Commission" means the University Grants Commission ;

(d) "Director" means the Director of a Centre or Institute ;

(e) "Institute" means the National Institute of Pakistan Studies, University of Islamabad ;

(f) "regulations" means regulations made under section 12 ; and

(g) "rules" means rules made under section 11.

3. **Establishment of Centre and the Institute.**—As soon as may be after the commencement of this Act, the Federal Government may by notification in the official Gazette, establish a Pakistan Study Centre in a University specified in the notification and the National Institute of Pakistan Studies in the University of Islamabad.

4. **Functions of Centre.**—A Centre shall—

(a) engage in the study of languages, literature, social structure, customs, attitudes and motivation, of the people of various regions of Pakistan :

(b) establish under-graduate, graduate, post-graduate degree and other programmes in the relevant discipline in accordance with the standard and requirements of the University in which the Centre is established ;

(c) promote co-operation in inter-disciplinary relationship with other centres, teaching and research establishments ;

(d) arrange conferences, seminars and refresher courses for the development of teaching and research ; and

(e) promote teaching and research in particular subjects as assigned to it by the Federal Government in consultation with the University in which the Centre is established.

5. **Functions of Institute.**—The Institute shall—

(a) engage in high-level teaching and research ;

(b) train research workers ;

(c) establish M.A., M. Phil, Ph. D. and other programmes in the relevant discipline in accordance with the standard and requirements of the University of Islamabad ;

(d) promote co-operation in inter-disciplinary relationship with other centres, teaching and research establishments ;

(e) arrange conferences, seminars and refresher courses for the development of teaching and research ; and

(f) conduct teaching and research in such particular field as is assigned to it by the Federal Government in consultation with the University of Islamabad.

6. **Board of Governors.**—(1) The management, overall control and supervision of the affairs of a Centre established in a University shall vest in a Board of Governors consisting of the following members, namely :—

(a) Vice-Chancellor of the University, who shall also be its Chairman ;

(b) a representative of the Commission ;

(c) a representative of the Pakistan History Commission ;

(d) a representative of the Ministry of Education ;

(e) a representative of the National Education Council ;

(f) Dean of the Faculty of the University ;

(g) two experts in the relevant discipline to be nominated by the Federal Government on the recommendation of the Commission ;

(h) one expert in the relevant discipline to be nominated by the Syndicate of the University ;

(i) one expert in the relevant discipline to be nominated by the Academic Council of the University ; and

(j) Director of the Centre.

(2) In particular and without prejudice to the generality of the foregoing provision, a Board shall have the power to—

(a) approve the academic and research programmes of the Centre with the concurrence of the Academic council of the University in which the centre is established ;

(b) lay down rules of admission to the Centre ;

(c) institute fellowships for promotion of research in the discipline concerned ;

(d) create, suspend or abolish such posts as may be necessary ;

(e) appoint teachers and other officers ; and

(f) hold, control and administer the funds of the Centre.

(3) A member of a Board referred to in clause (g) of sub-section (1) shall hold office for such term as may be determined by the Federal Government.

(4) The meetings of a Board shall be held as and when called by the Chairman :

Provided that not less than two meetings shall be held in each year and the period between such meetings shall not be more than twelve months.

(5) In the exercise of its powers and the performance of its functions, a Board shall be subject to such special or general instructions as may be issued by the Commission from time to time.

(6) A Board may, for the speedy and efficient working of the Centre, delegate to the Director such of its powers as it may deem necessary.

7. **Director.**—(1) The Director shall be appointed by the Federal Government after consultation with the Commission and the University in which the Centre concerned is established on such remuneration and other terms and conditions of service as may be determined by the Federal Government.

(2) The Director shall be the academic and executive head of the Centre and Secretary of the Board, and shall be responsible to the Board for carrying out the objectives of the Centre.

(3) The Director shall perform such other functions and exercise such powers as may be assigned or delegated to him by the Board.

(4) The Director may, by writing under his hand addressed to the Chairman, resign his office.

8. **Academic Committee.**—(1) At each Centre there shall be an Academic Committee consisting of the following members, namely :—

(a) Director of the Centre, who shall also be its convener ;

(b) all Professors and Associate Professors of the Centre ; and

(c) two experts to be nominated by the Commission.

(2) The Committee may associate such other experts as it may consider necessary.

(3) The Committee shall prepare and submit to the Board the academic and research programmes of the Centre.

9. **Fund.**—Each Centre shall have a fund to which shall be credited—

(a) grants made by the Federal Government, the Provincial Government and the Commission ;

(b) contributions and donations from individuals, local bodies, corporations, institutions, organizations and agencies ; and

(c) income from fees.

10. **Audit and accounts, etc.**—(1) The accounts of a Centre shall be maintained in such form and manner as may be prescribed by rules.

(2) The accounts of a Centre shall be audited once in every year by an auditor appointed by the Commission on such remuneration, if any, to be paid by the Centre, as the Commission may fix.

(3) A Centre shall submit, through the Commission, to the Federal Government a copy of its audited annual accounts, together with the observations of the Director, if any thereon, and a report on the activities of the Centre during the preceding year.

(4) A Centre shall furnish to the Federal Government such information relating to its activities as may be asked for by the Federal Government from time to time.

11. **Power to make rules.**—The Federal Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act, including rules to regulate the financial and administrative matters relating to a Centre.

12. **Power to make regulations.**—A Centre may, with the approval of the Commission, make such regulations concerning academic matters, not inconsistent with the rules, as it may consider necessary for carrying out the purposes of this Act.

ACT No. XXVIII OF 1976

An Act to amend certain laws in pursuance of clause (4) of Article 8 of the Constitution of the Islamic Republic of Pakistan

WHEREAS it is necessary to amend certain laws in pursuance of clause (4) of Article 8 of the Constitution of the Islamic Republic of Pakistan;

AND WHEREAS, by virtue of the declaration made in the Proclamation issued by the President under Article 234 of the Constitution on the 31st December, 1975, in respect of the Province of Baluchistan, the powers of the Provincial Assembly of that Province are exercisable by, or under the authority of, Parliament;

It is hereby enacted as follows :—

1. **Short title, extent and commencement.**—(1) This Act may be called the Conformity with Fundamental Rights (Baluchistan Amendment of Laws) Act, 1976.

(2) It extends to the Province of Baluchistan.

(3) It shall come into force at once.

2. **Amendment of certain laws.**—The laws specified in the Schedule are hereby amended to the extent and in the manner specified in the second column thereof.

3. **Repeal.**—The Conformity with Fundamental Rights (Baluchistan Amendment of Laws) Ordinance, 1976 (Baluchistan Ordinance No. II of 1976), is hereby repealed.

THE SCHEDULE

(*See* section 2)

Laws amended	Amendments made
1	2
The Societies Registration Act, 1860 (XXI of 1860).	For section 16A the following shall be substituted, namely:— "16A. Supersession of governing body of a society :— (1) Notwithstanding anything contained in the memorandum of association, rules or regulations of a society registered under this Act, if, after such inquiry as may be necessary, the Provincial Government is of the opinion that the governing body of the society— (a) is unable to discharge or persistently fails in discharging its duties, or (b) is unable to administer its affairs or meet its financial obligations, or (c) generally acts in a manner contrary to public interest or the interests of the members of the society, the Provincial Government may, by notification in the official Gazette, declare the governing body to be superseded for such period, not exceeding one year, as may be specified in the notification. (2) On the publication of a notification under sub-section (1),— (a) the office-bearers and other members of the governing body shall cease to hold office ; and (b) all functions of the governing body shall, during the period of supersession, be performed by a governing body constituted by the Provincial Government or by such authority as the Provincial Government may appoint for the purpose. (3) On the expiry of the period of supersession, the governing body of the society shall be reconstituted in accordance with its memorandum of association, rules and regulations.".
The Baluchistan Industries (Control on Establishment and Enlargement) Ordinance, 1963 (W.P. Ordinance No. IV of 1963).	In section 3, for the full stop at the end a colon shall be substituted and thereafter the following proviso shall be added, namely :— "Provided that the application of any person for the grant of such permission shall not be rejected— (a) without giving such person an opportunity of showing cause against it ; or (b) unless the Government is satisfied, on the basis of information available to it and after making such inquiry as it may deem fit, that the grant of permission to such person will be prejudicial to the national interest, or injurious to the health of, or a source of nuisance for, the residents of the local area in which the industrial undertaking is proposed to be set up or, as the case may be, the industrial undertaking which is proposed to be enlarged is situated.".
The Privately Managed Schools and Colleges (Taking Over) Regulation, 1972.	(1) In paragraph 2,— (a) in clause (b), for the words "maintained and" the words and comma "owned, maintained or" shall be substituted; and

1

2

(b) in clause (c), for the words "maintained and" the words and comma "owned, maintained or" shall be substituted.

2. For paragraph 3 the following shall be substituted, namely:—

"3 (1) Except with the prior permission of the Provincial Government and subject to such conditions as it may, in the public interest, impose, no person who owns or manages any privately managed college or privately managed school shall close such college or school or suspend its working or in any manner transfer any property of, or attached to, such college or school or any interest therein.

(2) Any contract or agreement made or entered into at any time on or after the fifteenth day of March, 1972, in contravention of the provisions of sub-paragraph (1) shall be void.".

3. In paragraph 5, for the full stop at the end a colon shall be substituted and thereafter the following proviso shall be added, namely:—

"Provided that no such notification shall be issued in respect of a privately managed school unless the Provincial Government is satisfied that such school cannot be run on a genuinely benevolent, philanthropic or non-commercial basis or is not maintaining proper standards.".

4. In paragraph 6,—

(a) in sub-paragraph (1), after the word "it" at the end the commas and words ", except with the prior permission of the Provincial Government and subject to such conditions as it may, in the public interest, impose" shall be added; and

(b) in sub-paragraph (2), for the words "All changes" the words, brackets, figure and comma "Subject to the provisions of sub-paragraph (1), any change" shall be substituted.

5. In paragraph 7, in sub-paragraph (1), in clause (b),—

(a) after the brackets, figure and comma "(2),", the words and comma "or except with the prior permission of the Provincial Government," shall be inserted; and

(b) for the full stop at the end a colon shall be substituted and thereafter the following proviso shall be added, namely:—

"Provided that, with the general or special permission of the Provincial Government, any person may be promoted, employed or engaged, on such terms and conditions as may be approved by the Provincial Government, against a newly created post or a vacancy caused by the retirement, or expiry of the stipulated period of employment, or termination of service in accordance with the terms and conditions of his employment, of a person who was employed or engaged before the fifteenth day of March, 1972.".

6. In paragraph 12, for the word "and" the word "or" shall be substituted.

ACT No. XXIX OF 1976

An Act to provide for controlling and regulating the quality of seeds of various varieties of crops

WHEREAS it is expedient to provide for controlling and regulating the quality of seeds of various varieties of crops and for matters connected therewith ;

AND WHEREAS the Provincial Assemblies of the Punjab, Sind, the North-West Frontier Province and Baluchistan have passed resolutions under Article 144 of the Constitution of the Islamic Republic of Pakistan to the effect that Parliament may by law regulate and control the quality of seeds of various varieties of crops ;

It is hereby enacted as follows :—

PRELIMINARY

1. **Short title, extent and commencement.**—(1) This Act may be called the Seed Act, 1976.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. **Definitions.**—In this Act, unless there is anything repugnant in the subject or context,—

(a) " approved seed " means seed true to species as approved by the Federal Seed Certification Agency ;

(b) " basic seed " means seed produced by an organization set up by a Provincial Government for the purpose ;

(c) " certified seed " means seed certified by the Federal Seed Certification Agency ;

(d) " Federal Seed Certification Agency " means the Federal Seed Certification Agency established under section 5 ;

(e) " National Registration Agency " means the National Registration Agency established under section 7 ;

(f) " National Seed Council " means the National Seed Council established under section 3 ;

(g) " notified variety or species " means a variety or species which has been notified as such under section 10 ;

(h) " post-control " means a trial to check on varietal authenticity and purity of the certified seed ;

(i) " pre-basic seed " means seed of high genetic purity produced by a plant breeder ;

(j) " prescribed " means prescribed by rules ;

(k) "Provincial Seed Council" means a Provincial Seed Council established under section 9;

(l) "registered variety" means a variety registered by the National Registration Agency under section 8;

(m) "registered grower" means a person or group of persons engaged in producing seed and registered as such under this Act;

(n) "released variety" means a registered variety having agricultural value for growing in a Province and approved by the Provincial Seed Council;

(o) "rules" means rules made under this Act;

(p) "seed" means any of the following classes of seeds used for sowing or planting namely—

  (i) Seeds of food crops including edible oil seed and seeds of fruits and vegetables;

  (ii) cotton seed;

  (iii) seeds of fodder; and includes seedlings, tubers, bulbs, rhizomes, roots, cuttings, all types of grafts and other vegetatively propagated material of food crops or fodder.

(q) "Seed Analyst" means a Seed Analyst appointed under section 17;

(r) "Seed Certification Officer" means a Seed Certification Officer appointed under section 18;

(s) "Seed Inspector" means a Seed Inspector appointed under section 19;

(t) "species" means a group of plants representing a crop known by a common name, such as, wheat, paddy and cotton belonging to one species sub-species or forma; and

(u) "variety" means a group of plants belonging to a species which for cropping purpose is considered as an individual unit and can be distinguished from other varieties of the same species.

3. **Establishment of National Seed Council.**—As soon as may be after the commencement of this Act, the Federal Government shall establish a National Seed Council under the Chairmanship of the Federal Minister-in-Charge of Agriculture for the performance of such functions as may be entrusted to it under this Act.

4. **Functions of the National Seed Council.**—The functions of the National Seed Council *inter-alia* shall be—

(i) to advise on policy for the development, operation and regulation of the Provincial seed industries;

(ii) to maintain a watch on the operation of the provisions of this Act;

(iii) to guide in administering the seed quality control service;

(iv) to direct initiation of Provincial Seed Projects;

(v) to ensure and protect investment in the seed industry;

(vi) to approve and sanction seed standards;

(vii) to regulate inter-Provincial seed movement;

(viii) to advise on import of seeds;

(ix) to coordinate multiplication and supply of seeds of approved varieties;

(x) to coordinate the arrangements for the maintenance of genetic potential; and

(xi) to assist in developing approved seed production farms.

5. **Establishment of Federal Seed Certification Agency.**—As soon as may be after the commencement of this Act, the Federal Government shall establish a Federal Seed Certification Agency for the performance of such functions as may be entrusted to it under this Act.

6. **Functions of Federal Seed Certification Agency.**—The Federal Seed Certification Agency shall perform the following functions, namely:—

(a) controlling the quality of seeds;

(b) registering growers in such manner and subject to such conditions as may be prescribed;

(c) certification of seeds;

(d) field inspection of the crops of registered varieties and released varieties intended for sale as basic seed or certified seed;

(e) sampling and testing of seed lots intended for sale in order to ascertain their purity, viability, germination capacity and health status in the prescribed manner;

(f) issuing certificates in respect of seeds which meet the prescribed standards of particular category of seeds;

(g) carrying out post-control trials on pre-basic, basic and certified seeds;

(h) sampling and analysing seed lots delivered to the processing plants to establish a basis for the purchase of such lots;

(i) arranging training courses for seed Certification Officer; and

(j) providing technical and specialist advice and assistance to the National Seed Council in the performance of its functions.

7. **Establishment of National Registration Agency.**—As soon as may be after the commencement of this Act, the Federal Government shall establish a National Registration Agency for the performance of such functions as may be entrusted to it under this Act.

8. **Functions of National Registration Agency.**—The National Registration Agency shall perform the executive functions of the National Seed Council and shall:—

(i) conduct pre-registration checking of varieties submitted for the purpose of.—

  (a) determining suitability for registration as a variety;

(b) providing definitive botanical description of crop varieties ; and

(c) providing information on genetic suitability and adaptability of varieties ;

(ii) register seed varieties after conducting pre-registration checking under clause (i) ;

(iii) publish a list of registered seed varieties ; and

(iv) perform such other functions as the National Seed Council may entrust to it.

9. **Establishment of Provincial Seed Council.**—As soon as may be after the commencement of this Act, each Provincial Government shall establish a Provincial Seed Council for the performance of such functions for the purposes of this Act as may be entrusted to it by the Federal Government, in consultation with the Provincial Government.

10. **Power to notify varieties or species of seed.**—The Federal Government may, by notification in the official Gazette, specify :—

(a) the varieties or species of seed approved for production in a Province or any part thereof ;

(b) the minimum limits of germination and purity standards to which such seed shall conform ; and

(c) the mark and label to indicate that such seed conforms to the minimum limits of germination and purity standards and the particulars which such mark or label may contain.

11. **Regulation of sale of seeds of notified varieties and species.**—No person shall sell, offer for sale, or advertise or hold in stock for sale, or barter or otherwise supply, any seed of any notified variety or species unless,—

(a) such seed is identifiable as to its variety or species ;

(b) such seed conforms to the minimum limits of germination and purity standards as laid down under section 10 ;

(c) the container of such seed bears the mark and label containing correct particulars thereof in the prescribed manner ; and

(d) he complies with such other requirements as may be prescribed.

12. **Appointment of registered growers.**—The Federal Seed Certification Agency may, on the recommendation of a Provincial Seed Council, register any farmer or grower as a registered grower to produce seed in the prescribed manner.

13. **Grant of certificate by Federal Certification Agency.**—(1) Any person intending to produce notified varieties or species of seed, or stock for sale, or offer for distribution or otherwise supply seed of a notified variety or species may, if he desires to have such seed certified or tested by the Federal Seed Certification Agency, apply to the said Agency for the grant of a certificate for this purpose.

(2) Every application under sub-section (1) shall be in such form and be accompanied by such fee and contain such information as may be prescribed.

(3) On receipt of an application under sub-section (1), the Federal Certification Agency, may after such enquiry as it thinks fit and after satisfying itself that the seed to which the application relates conforms to the minimum prescribed standards, grant a certificate in such form and on such conditions as may be prescribed.

14. **Period for which registration and certification shall be effective.**—(1) The registration of a grower for producing seeds shall be effective for such period, not exceeding five years, as may be prescribed.

(2) The certification of the notified varieties and species of seeds shall be effective for such period as may be prescribed.

15. **Cancellation of certification.**—If, at any time after certification under sub-section (3) of section 13, the Federal Seed Certification Agency is satisfied, either on a reference made to it in this behalf or otherwise, that—

(i) the certificate granted by it has been obtained by misrepresentation or suppression of an essential fact ; or

(ii) the holder of the certificate has, without reasonable cause, failed to comply with the conditions subject to which the certificate has been granted or has contravened any of the provisions of this Act or the rules,

then, without prejudice to any other penalty to which the holder of the certificate may be liable under this Act, the Federal Seed Certification Agency may, after giving the holder an opportunity of showing cause, cancel the certificate.

16. **Appeal.**—(1) Any person aggrieved by a decision of the Federal Seed Certification Agency under section 15 to cancel a certificate may, within thirty days from the date on which the decision to cancel the certificate is communicated to him and on payment of such fee as may be prescribed, prefer an appeal to the federal government or any other authority as it may determine from time to time.

(2) On receipt of an appeal under sub-section (1), the appellate authority shall, after giving the appellant an opportunity of being heard, dispose of the appeal as expeditiously as possible.

(3) The order of the appellate authority under this section shall be final.

17. **Seed Analyst.**—The Federal Seed Certification Agency may, by notification in the official Gazette, appoint any person to be a Seed Analyst to test the quality and purity of seed produced at the seed farms before it is given out for commercial cultivation.

18. **Seed Certification Officer.**—The Federal Seed Certification Agency may, by notification in the official Gazette, appoint such person as it thinks fit to be a Seed Certification Officer for such area as may be specified in the notification.

(2) A Seed Certification Officer shall perform the same functions as are assigned to a Seed Inspector and also supervise the work of the Seed Inspectors in the area for which he is appointed.

19. **Seed Inspector.**—The Federal Seed Certification Agency may, by notification in the official Gazette, appoint such persons as it thinks fit to be Seed Inspectors for such areas as may be specified in the notification.

20. **Power of Seed Inspectors.**—(1) A Seed Inspector may, within the area for which he is appointed, inspect and take samples of any seed in labelled containers purporting to contain seed of a notified variety or species of seed from any person producing, selling, delivering, stocking or distributing seed and send such samples for analysis to the nearest laboratory of the Federal Seed Certification Agency.

(2) The Seed Inspector may—

(a) enter and search at all times, with such assistance as he may consider necessary, any place in which he has reason to believe that an offence under this Act has been or is being committed and order in writing the person in possession of any seed in respect of which the offence has been or is being committed not to dispose of any stock of such seed for a specified period not exceeding thirty days or, unless the alleged offence is such that the defect may be removed by the possessors of seed, seize the stock of such seed ;

(b) examine any record, register, document or other material, object found in any place mentioned in clause (a) and seize the same if he has reason to believe that it may furnish evidence of the commission of any offence punishable under this Act ; and

(c) exercise such powers as may be necessary for carrying out the purposes of this Act or any rule.

(3) Where any sample of any seed of any notified variety or species is taken under sub-section (1), its cost, calculated at the rate at which such seed is usually sold in the market, shall be paid on demand to the person from whom it is taken.

(4) The power conferred by this section includes power to break open any labelled container in which any seed of any notified variety or species may be kept and to break upon the door of any premises where any such seed may be kept for sale :

Provided that the power to break open the door shall be exercised only after the owner or any other person in occupation of the premise, if he is present therein, refuses to open the door on being called upon to do so.

(5) Where the Seed Inspector takes any action under sub-section (1), he shall, as far as possible, call not less than two persons of the locality to be present at the time when such action is taken and take their signature on a memorandum to be prepared in the prescribed form and manner.

(6) The provisions of the Code of Criminal Procedure, 1898 (Act V of 1898), shall, so far as may be, apply to any search or seizure made under this section as they apply to any search or seizure made under the authority of a warrant issued under section 98 of the said Code.

21. **Procedure to be followed by Seed Inspector.**—(1) Whenever a Seed Inspector intends to take a sample from the crop of any seed of any notified variety or species for analysis, he shall—

(a) give notice in writing of his intention to do so to the person from whom he intends to take sample ; and

(b) except in special cases provided by rules, take three representative samples in the prescribed manner and mark and seal or fasten up each sample in such manner as its nature permits.

(2) When samples of any seed of any notified variety or species are taken under sub-section (1), the Seed Inspector shall—

(a) deliver one sample to the person from whom it has been taken ;

(b) send, in the prescribed manner, another sample for analysis to the Seed Testing Laboratory of the area within which such sample has been taken ; and

(c) retain the remaining sample in the prescribed manner for production in case any legal proceedings are taken.

(3) Where a Seed Inspector makes an order under clause (a) of sub-section (2) of section 20,

(a) he shall use all despatch in ascertaining whether or not the seed contravenes any of the specifications laid down under section 10, and, if it is ascertained that the seed does not so contravene, forthwith revoke the order passed under the said clause or, as the case may be, take such action as may be necessary for the return of the stock of the seed seized thereunder ;

(b) if the stock of the seed seized under that clause does not conform to the aforesaid specifications, he shall, as soon as may be, report the matter to a Magistrate and take his orders as to the custody thereof ; and

(c) without prejudice to the institution of any prosecution, if the alleged offence is such that the defect may be removed by the possessor of the seed, he shall, on being satisfied that the defect has been so removed, forthwith revoke the order passed under the said clause.

(4) Where a Seed Inspector seizes any record, register, documents or any material object under clause (b) of sub-section (2) of section 20, he shall, as soon as may be, report the matter to a Magistrate and take his orders as to the custody thereof.

22. **Report of Seed Testing Laboratory.**—(1) The Seed Testing Laboratory shall, as soon as may be after the receipt of the sample under section 21, analyse the sample and deliver, in such form as may be prescribed, one copy of the report of the result of the analysis to the Seed Inspector and another copy thereof to the person from whom the sample has been taken.

(2) The production in any inquiry, trial or other proceedings under this Act of a report under the hand of a Seed Analyst in the form prescribed shall, until the contrary is proved, be sufficient to prove the facts stated therein.

(3) When any person is accused of an offence under this Act, the court may, if it considers necessary in the interest of justice and the accused deposits in the court a sum of money in accordance with the scale prescribed, summon as a witness the Seed Analyst who analysed the sample in respect of which such person is accused of having committed an offence, and, if such person is acquitted, any sum of money so deposited shall be refunded to him.

23. **Offences and penalty.**—Whoever—

(i) contravenes any provision of this Act or any rule ; or

(ii) prevents a Seed Certification Officer or a Seed Inspector from taking a sample or inspecting seed under this Act ; or

(iii) prevents any official from exercising any power conferred on him by or under this Act, shall be punishable—

(a) for the first offence, with fine not exceeding one thousand rupees ;

(b) where the offence continues after conviction, with a further fine of one hundred rupees for each day during which the offence continues ; and

(c) for a subsequent offence, with imprisonment for a term which may extend to six months, or with fine, or with both.

24. **Power of court to order forfeiture.**—If any person is convicted of an offence punishable under this Act in respect of any notified variety or species of seed, the court convicting him shall further direct that the seed shall be forfeited to the Federal Government.

25. **Cognizance of offence, etc.**—(1) No court inferior to that of a Magistrate of the first class shall try an offence punishable under this Act.

(2) No court shall take cognizance of an offence punishable under this Act except upon a complaint in writing made by the Federal Seed Certification Agency or a person authorised by it in this behalf by an order in writing.

26. **Presumption as to order.**—Where an order purports to have been made and signed by an authority in exercise of any power conferred by or under this Act, a court shall presume within the meaning of the Evidence Act, 1872 (I of 1872), that such order was so made by that authority.

27. **Indemnity.**—No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act or the rules.

28. **Delegation of powers.**—The Federal Government may, by notification in the official Gazette, direct that all or any of its powers under this Act or the rules shall, in such circumstances and under such conditions, if any, as may be specified in the notification, be exerciseable also by—

(a) a Provincial Government ; or

(b) an officer or authority subordinate to the Federal Government.

29. **Power to make rules.**—(1) The Federal Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the functions of the Seed Testing Laboratory ;

(b) the requirements which shall be complied with by the registered growers or a person carrying on the business of seed production, processing or distribution ;

(c) the form of application for the grant of a certificate under section 13, the particulars it shall contain, the fees which shall accompany it, the form of the certificate and the conditions subject to which the certificate may be granted ;

(d) the records to be maintained by a registered grower or a person carrying on the business referred to in sub-section (1) of section 13 and the particulars which such records shall contain ;

(e) the form and manner in which, and the fee on payment of which, an appeal may be preferred under section 16 and the procedure to be followed by the appellate authority in disposing of the appeal ;

(f) the qualifications and duties of a Seed Certification Officer ;

(g) the qualifications and duties of a Seed Inspector ;

(h) the manner in which samples may be taken by the Seed Inspector, the procedure for sending such samples to the Seed Testing Laboratory and the manner of analysing such samples ;

(i) the form of report of the result of the analysis under sub-section (1) of section 22 and the fees payable in respect thereof ;

(j) the powers and functions of a Seed Analyst ; and

(k) any other matter which is to be or may be prescribed.

ACT No. XXX OF 1976

An Act to provide for the development, regulation and control of the profession of travel agencies in Pakistan

WHEREAS it is necessary and expedient to provide for the development, regulation and control of the profession of travel agencies in Pakistan ;

It is hereby enacted as follows :—

1. **Short title, extent and commencement.**—(1) This Act may be called the Travel Agencies Act, 1976.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. **Definitions.**—In this Act, unless there is anything repugnant in the subject or context,—

(a) " Committee " means the Travel Agencies Regulatory Committee set up by the Federal Government under section 3 ;

(b) " licence " means a licence granted under this Act to any person to operate as a travel agency ;

(c) " licenced guide " means a guide licensed under the law for the regulation and control of the profession of tourist guides ;

(d) " prescribed " means prescribed under the rules ;

(e) " rules " means rules made under this Act ;

(f) "travel agency" means a person, by whatever name called, who—

(i) makes, directly or indirectly, on commercial basis arrangements for the passage of the tourists, or use of transport, or transportation of their baggage or goods by sea, air, rail or road; or

(ii) makes arrangements for lodging, transport or other services relating to travel of persons within Pakistan or arranges entertainment, sight-seeing, excursion and guide services, whether the arrangements are made on the basis of comprehensive all inclusive rates or on the basis of separate charges for each service provided; or

(iii) has been delegated general authority in respect of sales for the airlines or other carriers, either directly or through a subcontract; and

(g) "tourist" means a person normally residing outside Pakistan who enters Pakistan and remains therein for not less than twenty-four hours and not more than six months in the course of any year for purposes such as touring, recreation, sports, health, study, religious pilgrimages or business, and includes a citizen of Pakistan who travels within Pakistan or proceeds abroad for any of the said purposes.

3. **Committee.**—(1) As soon as may be after the commencement of this Act, the Federal Government shall set up a committee to be known as the Travel Agencies Regulatory Committee consisting of a Chairman and such other members as the Federal Government may determine.

(2) The Chairman and other members of the Committee shall hold office during the pleasure of the Federal Government on such terms and conditions as the Federal Government may determine.

(3) The Committee shall perform the following functions, namely:—

(a) advise the Federal Government in the implementation of the provisions of this Act and the rules;

(b) approve the rates of service charges of travel agencies in respect of various services rendered by them to the tourists;

(c) advise the Federal Government from time to time in respect of licence fees to be prescribed for various services rendered by the travel agencies;

(d) assist the Federal Government in the preparation of a code of conduct for travel agencies; and

(e) such other functions as are connected with the objects of this Act and as the Federal Government may entrust to it.

4. **Licensing of travel agency.**—(1) Any person operating or intending to organise and operate a travel agency shall apply to the Federal Government on the prescribed form for the grant of a licence.

(2) Subject to sub-section (3), on receipt of an application under subsection (1), the Federal Government may, on payment of the prescribed fee by the applicant, grant to the applicant a licence in the prescribed form.

(3) A licence shall not be granted to an applicant if—

(a) the applicant, or the manager or any partner or director of the applicant, has been convicted of an offence which, in the opinion of the Federal Government, involves moral turpitude;

(b) the applicant is a minor or insane person;

(c) the financial position of the applicant is, in the opinion of the Federal Government, such as would prevent the applicant from acting as a travel agency efficiently;

(d) the applicant has had no experience of travel arrangements required to operate the business of a travel agency and has not employed persons who have had such experience; or

(e) the applicant does not have an office of a prescribed minimum standard or does not engage experienced and trained employees or licensed guides or does not provide such transportation facilities as may be prescribed.

(4) The Federal Government shall maintain a register in which the names, addresses, nature, composition and the field of operation of all licenced travel agencies shall be entered.

(5) The licence shall, unless earlier cancelled or suspended under section 10 or section 11, remain valid for one year and may be renewed from year to year in such manner, and on payment of such fee, as may be prescribed.

5. **Exemption from application.**—This Act shall not apply to—

(a) enterprises operated by the State;

(b) national carriers of Pakistan and foreign airlines, duly authorised to operate to, from or *via* Pakistan; or

(c) any agency, whether private or official, which is specifically entrusted by Government with the work relating to handling of Haj pilgrims or other pilgrims, within or without Pakistan, and who are subject to special regulations governing their field of activity.

6. **Prohibition to act without license, etc.**—Subject to section 5—

(1) no person shall hold himself out or act as a travel agency unless he holds a licence.

(2) no airline or other carrier shall delegate general authority in respect of sales, either directly or through a sub-contract, to a person who does not hold a licence.

7. **Business guarantee fund.**—(1) A licensed travel agency shall maintain in a scheduled bank a business guarantee fund of such minimum amount or furnish such bank guarantee, as may be prescribed.

(2) No amount shall be payable out of a business guarantee fund maintained by a licensed travel agency under sub-section (1) except to the order of the Federal Government.

(3) The Federal Government may, after making such inquiry as it may deem fit and after giving a travel agency an opportunity of showing cause against the order proposed to be made, order payment, out of the business guarantee fund of the travel agency, of any sum owed by the agency to a tourist, carrier, company or hotel or lodging house and not settled by it within thirty days from the date of its becoming due.

(4) A travel agency from whose business guarantee fund payment of any amount has been made under sub-section (3) shall, within a period of fifteen days of such payment, deposit the said amount into the business guarantee fund.

8. **Service charges.**—(1) The rates of service charges from the tourists shall be set out in a rate list drawn up by a licensed travel agency from time to time and approved by the Committee.

(2) A copy of the rate list referred to in sub-section (1) for the time being in force shall be posted at some conspicuous part of the office of the travel agency.

9. **Alterations.**—A licensed travel agency shall, on payment of the prescribed fee, have every change in its nature or composition or its field of operation entered in the register maintained under section 4, within fifteen days of the day on which such change occurs.

10. **Discontinuance of business, etc.**—In the case of discontinuance or transfer of business, dissolution, re-organisation or winding up of a licensed travel agency, the Federal Government shall be informed by the agency within thirty days of such discontinuance, transfer, dissolution, re-organization or winding up, and on receipt of the information, the Federal Government may either cancel the licence granted to the travel agency or, in the case of transfer of business or re-organization, grant a new licence to the transferee travel agency or to the travel agency as re-organized.

11. **Suspension or cancellation of licence.**—The Federal Government may, after affording a licensed travel agency an opportunity of showing cause against the action proposed to be taken against it, by order in writing, suspend the license of the travel agency for a period not exceeding six months or cancel its licence if the agency—

(a) violates the provisions of this Act or the rules or the terms and conditions of the licence or the prescribed code of conduct ;

(b) suspends its business without intimation to, or permission of, the Federal Government and does not resume it within six months from the date of such suspension or within the time specified by the Federal Government ;

(c) contravenes the provisions of sub-section (1) or sub-section (4) of section 7 ; or

(d) becomes a person to whom a licence cannot be granted under sub-section (3) of section 4.

12. **Complaints.**—Any traveller having a complaint against any travel agency may approach the Committee which shall dispose of the same in the prescribed manner.

13. **Appeal and review.**—(1) A travel agency aggrieved by the decision or order of an officer or authority other than the Federal Government under this Act or the rules may prefer an appeal to the Federal Government within the prescribed time and in the prescribed manner; and the decision of the Federal Government in such appeal shall be final.

(2) The Federal Government may at any time of its own motion, or on the application of any travel agency aggrieved by any decision or order passed by the Federal Government under this Act or the rules within the prescribed time and in the prescribed manner, pass such order in relation thereto as it thinks fit:

Provided that no order against a travel agency shall be passed unless it has been given an opportunity of showing cause against it and of being heard.

14. **Penalty.**—(1) Any travel agency which contravenes or fails to comply with the provisions of this Act or the rules or violates the prescribed code of conduct shall, without prejudice to any other action that may be taken against it under this Act, be punishable with fine which may extend to twenty-five thousand rupees.

(2) No court shall take cognizance of an offence punishable under this Act except upon a complaint made in writing by or under the authority of the Federal Government.

15. **Delegation of powers.**—The Federal Government may, by notification in the official Gazette, direct that all or any of its powers under this Act shall, under such conditions, if any, as may be specified, be exercisable also—

(a) by any Officer or authority subordinate to the Federal Government, or

(b) by a Provincial Government or any Officer or authority subordinate to such Government.

16. **Power to make rules.**—(1) The Federal Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the fees payable for the issue and renewal of a licence, depending on the nature of the services to be rendered by an applicant to tourists and the number of branch offices the applicant proposes to establish;

(b) the form in which an application for a licence is to be made;

(c) the form of the licence;

(d) the code of conduct;

(e) the conditions to which a licence shall be subject; and

(f) the manner in which, and the time within which, an appeal under this Act may be preferred.

ACT No. XXXI OF 1976

An Act to regulate the import, export, manufacture, storage, distribution and sale of drugs

WHEREAS it is expedient to regulate the import, export, manufacture, storage, distribution and sale of drugs ;

It is hereby enacted as follows :—

CHAPTER I

INTRODUCTORY

1. **Short title, extent and commencement.**—(1) This Act may be called the Drugs Act, 1976.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. **Application of other laws not barred.**—The provisions of this Act, shall be in addition to, and not in derogation of, the Dangerous Drugs Act, 1930 (II of 1930), and any other law for the time being in force.

3. **Definitions.**—In this Act, unless there is anything repugnant in the subject or context,—

(*a*) " adulterated drug " means a drug—

(*i*) which consists in whole or in part of any filthy, putrid or decomposed substance or which contains any foreign matter, vermin, worm, rodent or insect ; or

(*ii*) which has been manufactured, packed, or held under unsanitary conditions whereby it may have been contaminated with dirt, filth or any other foreign matter or whereby it may have been rendered injurious to health ; or

(*iii*) the container of which releases any poisonous or deleterious substance which may render the contents injurious to health ; or

(*iv*) which bears or contains as an ingredient a substance other than the prescribed substance ; or

(*v*) with which any substance has been mixed or packed so as to reduce its quality or strength or for which any substance has been substituted wholly or in part ;

(*b*) " Appellate Board " means the Board constituted under section 9 ;

(*c*) " batch " means a quantity of any drug produced during a given cycle of manufacture ;

(*d*) " batch number " means a designation printed on the label of a drug that identifies the batch and permits the production history of the batch, including all stages of manufacture and control, to be traced and reviewed ;

(*e*) " Central Licensing Board " means a Board set up under section 5 ;

(*f*) "counterfeit drug" means a drug the label or outer-packing of which is an imitation of, or resembles or so nearly resembles as to be calculated to deceive, the label or outer-packing of a drug of another manufacturer ;

(*g*) "drug" includes—

(*i*) any substance or mixture of substances that is manufactured, sold, stored, offered for sale or represented for internal or external use in the treatment, mitigation, prevention or diagnosis of disease, an abnormal physical state, or the symptoms thereof in human beings or animals, or the restoration, correction, or modification of organic functions in human beings or animals, not being a substance exclusively used or prepared for use in accordance with the ayurvedic, unani, homoeopathic or biochemic system of treatment except those substances and in accordance with such conditions as may be prescribed ;

(*ii*) abortive and contraceptive substances, agents and devices, surgical ligatures, sutures, bandages, absorbent cotton, disinfectants, bacteriophages, adhesive plasters, gelatine capsules and antiseptic solutions ;

(*iii*) such substances intended to be used for the destruction or repulsion of such vermin, insects, rodents and other organisms as cause, carry or transmit disease in human beings or animals or for disinfection in residential areas or in premises in which food is manufactured, prepared or kept or stored ;

(*iv*) such pesticides as may cause health hazard to the public ;

(*v*) any substance mentioned as monograph or as a preparation in the Pakistan Pharmacopoeia or the Pakistan National Formulary or the International Pharmacopoeia or the British Pharmacopoeia or the British Pharmaceutical Codex or the United States Pharmacopoeia or the National Formulary of the United States, whether alone or in combination with any substance exclusively used in the unani, ayurvedic, homoeopathic or biochemic system of treatment, and intended to be used for any of the purposes mentioned in sub-clauses (i), (ii) and (iii) ; and

(*vi*) any other substance which the Federal Government may, by notification in the official Gazette, declare to be a "drug" for the purposes of this Act ;

(*h*) "expiry date" means the date stated on the label of a drug after which the drug is not expected to retain its claimed efficacy, safety, quality or potency or after which it is not permissible to sell the drug ;

(*i*) "expert" means a specialist through university education and experience in the relevant field ;

(*j*) "export", with its grammatical variations and cognate expressions, means to take out of Pakistan by sea, land or air ;

(*k*) "generic name" means the non-proprietary, scientific or official name of a drug as approved by the Federal Government ;

(*l*) "Government Analyst" means a Federal Government Analyst or a Provincial Government Analyst appointed under section 16 ;

(*m*) "import", with its grammatical variations and cognate expressions, means to bring into Pakistan by sea, land or air ;

(*n*) "Inspector" means a Federal Inspector or a Provincial Inspector appointed under section 17 ;

(*o*) " label " means a display of written, printed or graphic matter upon the immediate container, or the outside container or wrapper of a drug package ;

(*p*) " labelling " **means** all labels and other written, printed or graphic matter accompanying any drug ;

(*q*) " licensing authority " means such authority as may be prescribed ;

(*r*) " manufacture ", in relation to a drug, means all operations involved in the production of the drug, including processing, compounding, formulating, filling, packing, repacking, altering, ornamenting, finishing and labelling with a view to its storage, sale and distribution, but does not include the compounding and dispensing or the packing of any drug in the ordinary course of retail business or on a prescription of a registered medical practitioner or dentist or of a veterinarian and " to manufacture " shall be construed accordingly ;

(*s*) " misbranded drug " means a drug—

(*i*) which is not labelled in the prescribed manner ; or

(*ii*) on the label or labelling of which any word, statement, or other matter or information required by the rules to appear on the label or labelling is not prominently placed with such conspicuousness (as compared with other words, statements, designs, or devices on the label or labelling) and in such terms as may render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use ; or

(*iii*) which is not labelled with such directions for use and such warnings against use in indications where its use may be dangerous to health, or against unsafe dosage or duration of administration or application, in such manner and form as are necessary for the protection of users or as may be prescribed ; or

(*iv*) the label or container of which, or anything accompanying which, bears any statement, design or device which makes any false claim for the drug or which is false or misleading in any particular ; or

(*v*) which is so coloured, coated, powdered or polished that damage is concealed, or which is made to appear of better or greater therapeutic value than it really is ; or

(*vi*) which is manufactured according to the specifications of a particular pharmacopoeia or any other document as may be prescribed and the label does not bear the name of that pharmacopoeia or document ;

(*t*) " prescribed " means prescribed by rules ;

(*u*) " Provincial Quality Control Board " means a Board set up under section 11 ;

(*v*) " Registration Board " means a Board set up under section 7 ;

(*w*) " registered drug " means any drug registered under section 7 ;

(x) " rules " mean rules made under this Act ;

(*y*) " Drug Court " means a court established under section 31 ;

(*z*) "specifications" when applied to a drug mean—

(*i*) such specifications as may be prescribed ; or

(*ii*) when the specifications are not prescribed, the specifications as contained in the most recent edition of any of the following publications, namely :—

(1) the Pakistan Pharmacopoeia ;

(2) the International Pharmacopoeia ;

(3) the European Pharmacopoeia ;

(4) the United States Pharmacopoeia ;

(5) the British Pharmacopoeia ;

(6) the British Pharmaceutical Codex ;

(7) the United States National Formulary ; and

(8) such other publication as may be prescribed :

Provided that, if the specifications do not appear in the most recent edition of any such publication, the specifications appearing in the next preceding edition of such publication in which the specifications appear shall apply ; or

(*iii*) if no specifications are either prescribed or contained in any of the publications referred to in sub-clause (ii), the specification approved for the purpose of registration under this Act ;

(*za*) "sell" means sell, offer for sale, expose for sale, have in possession for sale and distribution and "to sell" "sold" or "sale" shall be construed accordingly ;

(**z*b***) "spurious drug" means a drug—

(*i*) which purports to be a drug but does not contain the active ingredient of that drug ; or

(*ii*) which purports to be the product of a manufacturer, place or country of whom or of which it is not truly a product ; or

(*iii*) which is imported or exported or sold or offered or exposed for sale under a particular name while actually it is another drug ; or

(*iv*) the label of which bears the name of an individual or company purporting to be its manufacturer or producer which individual or company is fictitious or does not exist ;

(***zc***) "storage" means storage for sale and "to store" or "stored" shall be construed accordingly ; and

(***zz***) "sub-standard drug" means a drug which is not of specifications.

CHAPTER II

ADMINISTRATION AND ENFORCEMENT

4. **Regulation and prohibition of import, etc., of drugs.**— (1) The Federal Government shall regulate the import and export of drugs in the prescribed manner and for that purpose may make such orders and issue such directions to the importers and exporters as it may deem fit.

(2) If in the opinion of the Federal Government the public interest so requires, the Federal Government may, by notification in the official Gazette,—

(a) direct that a drug or a class of drugs specified in the notification, or drugs generally, shall not be imported or exported otherwise than under the authority of a licence issued under this Act or except by an importer or exporter or through an indentor registered in accordance with the rules ;

(b) direct that a drug or class of drugs specified in the notification shall not be imported except by an agency of Government so specified ; or

(c) prohibit the import or export of any drug or class of drugs specified in the notification.

5. **Regulation of manufacture of drugs.**—(1) The grant of licences to manufacture drugs shall be regulated in accordance with such conditions and procedure as may be prescribed, by a Central Licensing Board to be set up by the Federal Government and consisting of such representatives of the Federal Government and the Provincial Governments as may be prescribed.

(2) The members of the Central Licensing Board shall exercise such powers, including the powers of an Inspector, as may be prescribed.

(3) The Central Licensing Board shall make regulations to regulate the conduct of its business.

(4) Any member of the Central Licensing Board may, at any time, by writing under his hand addressed to the Federal Government, resign his office or shall vacate his office if the Federal Government, being of opinion that in the public interest it is necessary so to do, so directs.

(5) Subject to sub-section (4), a member of the Central Licensing Board shall hold office for the prescribed period.

6. **Regulation of sale of drugs.**— The Provincial Governments shall regulate the sale of drugs in the prescribed manner and may for that purpose make such orders, and issue such directions to the importers, manufacturers, stockists, retailers or other dealers of drugs, as they may deem fit.

7. **Registration of drugs.**— (1) The Federal Government shall cause all drugs to be registered in accordance with such conditions and procedure as may be prescribed and for that purpose set up a Registration Board, consisting of such number of persons, possessing such qualifications, as may be prescribed.

Explanation.— In this section, " drugs " means drugs which are in the finished form ready for use.

(2) The members of the Registration Board shall exercise such powers, including the powers of an Inspector, as may be prescribed.

(3) The Registration Board shall make regulations to regulate the conduct of its business.

(4) Any member of the Registration Board may, at any time, by writing under his hand addressed to the Federal Government, resign his office or shall vacate his office if the Federal Government, being of opinion that in the public interest it is necessary so to do, so directs.

(5) Subject to sub-section (4), the members of the Registration Board shall hold office for the prescribed period.

(6) The Federal Government shall, by notification in the official Gazette, fix the date after which no drug which is not registered shall be allowed to be exported, imported, manufactured, stored, distributed or sold.

(7) A person applying for the registration of a drug shall furnish such information in respect of the drug as may be prescribed, including information relating to its efficacy, safety and quality, or as may be required by the Registration Board for the purpose of the evaluation of the drug.

(8) Single-ingredient drugs shall be registered generally by their generic names while compound drugs shall be registered generally by their proprietary names.

Explanation.— In this sub-section,—

(*a*) " single-ingredient drugs " means drugs containing one active ingredient ;

(*b*) " compound drugs " means drugs containing more than one active ingredient.

(9) The registration of a drug shall be subject to such conditions, if any, as the Registration Board may specify at the time of its registration.

(10) Where the Registration Board registers a drug, it shall inform the person applying for its registration and the Provincial Governments of its having done so and of the conditions subject to which it has been registered.

(11) If the Registration Board, on the basis of information received or an inquiry conducted by it, is of opinion that—

(*a*) the registration of a drug was procured by fraud or misrepresentation ; or

(*b*) the circumstances in which a drug was registered no longer exist ; or

(*c*) there has been a violation of the conditions subject to which a drug was registered ; or

(*d*) it is necessary in the public interest so to do ;

the Registration Board may, after affording to the person on whose application the drug was registered an opportunity of showing cause against the action proposed to be taken, cancel or suspend the registration or specify any further conditions to which the registration shall be subject and inform such person and the Provincial Governments accordingly.

(12) The Provincial Governments shall take all such steps as may be necessary to ensure compliance with the conditions subject to which a drug is registered and to prevent the manufacture or sale of a drug—

(*a*) which has not been registered ; or

(*b*) the registration of which has been cancelled or stands suspended.

8. **Pakistan National Formulary**.— The Federal Government shall compile and publish in the official Gazette Pakistan National Formulary comprising all drugs allowed to be imported, manufactured or sold and such Formulary may be reviewed and modified from time to time.

9. **Appellate Board.**—(1) The Federal Government shall, in accordance with the rules, constitute an Appellate Board for the disposal of appeals preferred by persons aggrieved by any decision of the Central Licensing Board or the Registration Board or the licensing authority or a Board or Authority to which the powers of the Federal Government under section 12 have been delegated under sub-section (3) of that section and for revision of any such decision on its own motion.

(2) The Appellate Board shall consist of such representatives of the Federal Government and the Provincial Governments, including a Chairman, as the Federal Government may from time to time appoint.

(3) Subject to sub-section (4), the Chairman and other members of the Appellate Board shall hold office for the prescribed period.

(4) The Chairman or any other member of the Appellate Board may, by writing under his hand addressed to the Federal Government, resign his office or shall vacate his office if the Federal Government, being of opinion that in the public interest it is necessary so to do, so directs.

(5) The members of the Appellate Board shall exercise such powers, including the powers of an Inspector, as may be prescribed.

(6) The Appellate Board may appoint experts for the purposes of detailed study of any specific matter before it.

(7) The Appellate Board shall make regulations to regulate the conduct of its business.

10. **Expert Committees.**—(1) The Federal Government may constitute committees of experts on Drugs Evaluation, on Pakistan Pharmacopoeia, on Advertising and on such other matters as may be necessary for the purposes of this Act.

(2) Each committee constituted under sub-section (1) shall consist of such members as the Federal Government may appoint from time to time and each such member shall hold office during the pleasure of the Federal Government.

11. **Provincial Quality Control Board.**—(1) Each Provincial Government shall set up a Provincial Quality Control Board consisting of such members, including a Chairman, as that Government may appoint from time to time.

(2) The Chairman and other members of the Provincial Quality Control Board shall hold office during the pleasure of the Provincial Government, on such terms and conditions as that Government may determine.

(3) The Provincial Government shall appoint a person to be the Secretary of the Provincial Quality Control Board and provide the Board with such staff as the Provincial Government may consider necessary.

(4) The Provincial Quality Control Board shall make regulations to regulate the conduct of its business.

(5) The following shall be the powers and functions of the Provincial Quality Control Board, namely :—

(*a*) to inspect any premises where any drug is being, or is to be, manufactured or sold and to recommend to the appropriate authority the cancellation or suspension of the licence to manufacture or sell drugs granted to any person who is found to be contravening, or to have contravened, any of the provisions of this Act, or the rules ;

(*b*) to scrutinize the reports of Provincial Inspectors in respect of contraventions of this Act and reports of Government Analysts in respect of drugs sent to them by Provincial Inspectors for test and analysis and issue instructions to the Inspectors as to the action to be taken on such reports:

Provided that the Provincial Quality Control Board may specify the class of cases in which a Provincial Inspector may make a complaint to the Drug Court, or take any other action, without the specific instructions of the Board;

(*c*) to exercise all the powers of an Inspector under this Act and the rules; and

(*d*) to advise the Provincial Government on ways and means to ensure quality control of drugs manufactured in the Province.

(6) The Provincial Quality Control Board may entrust any of its powers or functions under sub-section (5) to any one or more of its members.

12. **Power to fix maximum prices of drugs, etc.**—(1) The Federal Government may, by notification in the official Gazette,—

(*a*) fix the maximum price at which any drug specified in the notification is to be sold; and

(*b*) specify a certain percentage of the profits of manufacturers of drugs which shall be utilised, in accordance with the rules for purposes of research in drugs.

(2) For the purpose of the exercise of its powers under sub-section (1), the Federal Government may require a manufacturer, stockist, importer, exporter, retailer or other dealer in drugs to furnish such relevant information as may be necessary.

(3) The Federal Government may, by notification in the official Gazette, delegate any of its powers under this section to any Board or other authority.

13. **Directions to Provincial Governments.**—The Federal Government may give such directions to a Provincial Government as may appear to the Federal Government to be necessary for carrying into execution in the Province of any of the provisions of this Act or of any rule or order made thereunder or for maintaining supplies of drugs of standard quality at reasonable prices or for the achievement of uniformity in respect of any matter in different parts of Pakistan.

14. **Federal Drug Laboratory and institutes, etc.**—The Federal Government shall, as soon as may be, establish a Federal Drug Laboratory and may also set up such other institutes and drugs testing and research laboratories for the purposes of this Act as may be prescribed.

15. **Provincial Drugs Testing Laboratory.**—Each Provincial Government shall, as soon as may be, set up a Provincial Drug Testing Laboratory for such purposes as may be prescribed.

16. **Government Analysts.**—The Federal Government or a Provincial Government may, by notification in the official Gazette, appoint such persons it thinks fit, having the prescribed qualifications, to be the Federal Government

Analysts or, as the case may be, Provincial Government Analysts, for such areas and in respect of such drugs or classes of drugs as may be specified in the notification :

Provided that no person who has any financial interest in the manufacture, import, export or sale of drugs shall be so appointed :

Provided further that a person serving under the Federal Government or another Provincial Government shall not be so appointed without the previous consent of that Government.

17. **Inspectors.**—The Federal Government or a Provincial Government may, by notification in the official Gazette, appoint such persons as it thinks fit, having the prescribed qualifications, to be Federal Inspectors or, as the case may be, Provincial Inspectors for the purposes of this Act within such local limits as it may assign to them respectively :

Provided that no person who has any financial interest in the manufacture, import, export or sale of any drug shall be so appointed :

Provided further that a person serving under the Federal Government or another Provincial Government shall not be so appointed without the previous consent of such Government.

18. **Powers of Inspectors.**—(1) Subject to the provisions of section 19 and of any rules made in this behalf, an Inspector may, within the local limits for which he is appointed, and in any other area with the permission of the licensing authority,—

(*a*) inspect any premises wherein any drug is manufactured, the plant and process of manufacture, the means employed for standardising and testing the drugs and all relevant records and registers ;

(*b*) inspect any premises wherein any drug is sold or is stocked or exhibited for sale or is distributed, the storage arrangements and all relevant records and registers ;

(*c*) take samples of any drug which is being manufactured, or being sold or is stocked or exhibited for sale or is being distributed ;

(*d*) enter and search, with such assistance, if any, as he considers necessary, any building, vessel or place, in which he has reason to believe that an offence under this Act or any rules has been or is being committed or may continue to be committed ;

(*e*) call any person to be present as witness in the course of search or seizure or in connection with any other matter where the presence of witnesses is necessary ;

(*f*) seize such drug and all materials used in the manufacture thereof and any other articles, including registers, cash-memos, invoices and bills, which he has reason to believe may furnish evidence of the commission of an offence punishable under this Act or any rules ;

(*g*) require any person to appear before him at any reasonable time and place to give statement, assistance or information relating to or in connection with the investigation of an offence under this Act or the rules :

Provided that the exemptions under sections 132 and 133 of the Code of Civil Procedure, 1908 (Act V of 1908), shall be applicable to requisitions for attendance under this clause ;

(*h*) lock and seal any factory, laboratory, shop, building, store-house or godown, or a part thereof, where any drug is or is being manufactured, stored, sold or exhibited for sale in contravention of any of the provisions of this Act or the rules ;

(*i*) forbid for a reasonable period, not exceeding four weeks or such further period, which shall not be more than three months, as the Inspector may, with the approval of the Provincial Quality Control Board, the Central Licensing Board, the Registration Board or the licensing authority, as the case may be, specify, any person in charge of any premises from removing or dispensing of any drug, article or other thing likely to be used in evidence of the commission of an offence under this Act or the rules ; and

(*j*) exercise such other powers as may be necessary for carrying out the purposes of this Act or any rules :

Provided that the powers under clauses (f) to (j) shall be exercisable only by an Inspector specifically authorised in this behalf, by an order in writing, by the Government appointing him, subject to such conditions as may be specified in such order :

Provided further that the power under clause (h) may be exercised by an Inspector not authorised as aforesaid where the contravention is of a provision which requires a licence to be obtained for the manufacture, storage or sale of a drug.

(2) The provisions of the Code of Criminal Procedure, 1898 (Act V of 1898), in so far as they are not inconsistent with the provisions of this Act, shall apply to searches and seizures made under this Act.

19. **Procedure for Inspectors.**—(1) Where an Inspector seizes any drug or any other article under section 18, he shall tender a receipt therefor in the prescribed form.

(2) Where an Inspector takes a sample of a drug for the purpose of test or analysis, he shall intimate such purpose in writing in the prescribed form to the person from whom he takes it and, in the presence of such person unless he wilfully absents himself, shall divide the sample into four portions and effectively seal and suitably mark the same and permit such person to add his own seal, if any, and mark to all or any of the portions so sealed and marked :

Provided that, where the sample is taken from premises whereon the drug is being manufactured, it shall be necessary to divide the sample into three portions only :

Provided further that, where the drug is made up in containers of small volume, instead of dividing a sample as aforesaid, the Inspector may, and if the drug be such that it is likely to deteriorate or be otherwise damaged by exposure shall, take three or four, as the case may be, of the said containers after suitably marking the same and, where necessary, sealing them :

Provided further that if the contents of one container are insufficient for the laboratory test and analysis, the Inspector may increase the number of the containers in order to make the sample sufficient for this purpose.

(3) The Inspector shall restore one portion of a sample so divided or one container, as the case may be, to the person from whom he takes it, and shall retain the remainder and dispose of the same within seven days as follows :—

(*i*) one portion or sample he shall send to the Government Analyst concerned for test and analysis ;

(*ii*) The second he shall send to the Chairman, Provincial Quality Control Board or the Central Licensing Board or the Registration Board, as the case may be ; and

(*iii*) the third, where taken, he shall send to the warrantor, if any, named under the proviso to sub-section (3) of section 32.

(4) Where an Inspector seizes any drug containing any filthy or putrid substance, vermin, worm, rodent, insect or any foreign matter which is visible to the naked eye, and the sample is such that it cannot or need not be divided, he shall effectively seal and suitably mark the same and permit the person from whom he seizes the drug to add his own seal if any, and mark to it and shall produce the same before the Drug Court or the Central Licensing Board or the Registration Board, as the case may be, before which proceedings are instituted or action is initiated in respect of the drug.

(5) Where an Inspector takes any action under section 18,—

(*a*) he shall as soon as practicable ascertain whether or not the drug contravenes any of the provisions of this Act and, if it is ascertained that the drug does not so contravene, he shall forthwith revoke the order passed under the said section or, as the case may be, take such action as may be necessary for the return of the stock seized and payment for the samples taken, under intimation to the Board concerned ;

(*b*) if he seizes the stock of the drug, he shall, as soon as may be, inform the Board concerned and take its order as to the custody thereof :

Provided that where a Federal Inspector is not competent to take action under section 30, he shall as soon as may be report the matter and hand over the stock, if any, to the Provincial Inspector for further action under this Act.

(6) The Provincial Inspector on finding any contravention of this Act shall, unless the Board otherwise directs, always refer the case to the Provincial Quality Control Board and seek orders as to the action to be taken in respect of such contravention.

(7) The Federal Inspector on finding any contravention of this Act for which he is authorised shall, unless otherwise directed, always refer the case to the Central Licensing Board or the Registration Board or any other authority as may be specified for the purpose and seek any further orders as to the action to be taken in respect of such contravention.

20. **Persons bound to disclose place where drugs are manufactured or kept.**—Every person for the time being in charge of any premises whereon any drug is being manufactured or is kept for sale or distribution shall, on being required by an Inspector so to do, disclose to the Inspector the place where the drug is being manufactured or is kept, as the case may be.

21. **Disclosure of the name of the manufacturer.**—Every person, not being the manufacturer of a drug or his agent for the distribution thereof, shall, if so required by an Inspector, disclose to him the name, address and other particulars of the manufacturer or other person from whom he acquired the drug.

22. **Reports of Government Analysts.**—(1) The Government Analyst to whom a sample of any drug has been submitted for test and analysis under sub-section (3) of section 19 shall deliver to the Inspector submitting it a signed report in quadruplicate in the prescribed form and forward one copy thereof to the authority as may be prescribed.

(2) The Government Analyst, as far as may be, shall submit the report referred to in sub-section (1) within sixty days of the receipt by him of the sample of the drug and, if he is not able to do so for reasons beyond his control, shall communicate the reasons to the Inspector in writing and shall endorse its copy to the Board concerned who shall have the sample tested from the same or any other Government Analyst or a Government Drug Testing Laboratory or any other Laboratory and shall ensure the receipt of results of such test and analysis within a further period as may be prescribed and shall make the test report available to the Inspector for further action.

(3) On receipt of the report, the Inspector shall—

(*a*) deliver one copy thereof to the person from whom the sample was taken ;

(*b*) forward one copy to the warrantor, if any, named under the proviso to sub-section (3) of section 32 ;

(*c*) forward one copy to the Board concerned for its directions as to the action to be taken on the report ; and

(*d*) retain the fourth copy for use in any prosecution or for any other purpose.

(4) Notwithstanding anything contained in any other law for the time being in force, any document purporting to be a report signed by a Government Analyst shall be admissible as evidence of the facts stated therein without formal proof and such evidence shall be conclusive unless the person from whom the sample was taken or the said warrantor has, within thirty days of the receipt of a copy of the report notified in writing to the Inspector or the Drug Court or, as the case may be, the Central Licensing Board or the Registration Board before which any proceedings in respect of the sample are pending that he intends to adduce evidence in controversion of the report.

(5) Where a person has, under sub-section (4), notified his intention of adducing evidence in controversion of a Government Analyst's report, the Drug Court or the Board concerned may, of its own motion or in its discretion at the request either of the complainant or the accused, cause the sample of the drug lying with the Board concerned under sub-section (3) of section 19 to be sent for test or analysis to the Federal Drug Laboratory or any other laboratory specified for the purpose by the Federal Government which shall make the test or analysis and report in writing signed by, or under the authority of, the person for the time being incharge of the Federal Drug Laboratory, or, as the case may be, such other laboratory, the result thereof and such report shall be conclusive evidence of the facts stated therein.

(6) The cost of a test or analysis made by the Federal Drug Laboratory or other laboratory under sub-section (5) shall be paid by the complainant or accused as the Drug Court or the Board concerned shall direct.

CHAPTER III

PROHIBITIONS

23. **Import, manufacture and sale of drugs.**—(1) No person shall himself or by any other person on his behalf—

(*a*) export, import or manufacture for sale or sell—

(*i*) any spurious drug ;

(*ii*) any counterfeit drug ;

(*iii*) any misbranded drug ;

(*iv*) any adulterated drug ;

(*v*) any substandard drug ;

(*vi*) any drug after its expiry date ;

(*vii*) any drug which is not registered or is not in accordance with the conditions of registration ;

(*viii*) any drug which, by means of any statement, design or device accompanying it or by any other means, purports or claims to cure or mitigate any such disease or ailment, or to have any such other effect, as may be prescribed ;

(*ix*) any drug if it is dangerous to health when used in the dosage or with the frequency, or for the duration specified, recommended or suggested in the labelling thereof ; or

(*x*) any drug in contravention of any of the provisions of this Act or any rule ;

(*b*) manufacture for sale any drug except under, and in accordance with the conditions of, a licence issued under this Act ;

(*c*) sell any drug except under, and in accordance with the conditions of, a licence issued under this Act ;

(*d*) import or export any drug the import or export of which is prohibited by or under this Act ;

(*e*) import or export any drug for the import or export of which a licence is required, except under, and in accordance with the conditions of, such licence ;

(*f*) supply an incorrect, incomplete or misleading information, when required to furnish any information under this Act or the rules ;

(*g*) peddle, hawk or offer for sale any drug in a park or public street or on a highway, footpath or public transport or conveyance ;

(*h*) import, manufacture for sale, or sell any substance, or mixture of substances, which is not a drug but is presented in a form or manner which is intended or likely to cause the public to believe it to be a drug ;

(*i*) sell any drug without having a warranty in the prescribed form bearing the name and batch number of the drug issued,—

(*i*) in the case of a drug manufactured in Pakistan, by the manufacturer holding a valid licence to manufacture drugs and permission to manufacture that drug or by his authorised agent ;

(*ii*) in the case of an imported drug, by the manufacturer or importer of that drug or, if the drug is imported through an indentor by such indentor ; and

(*j*) apply an incorrect batch number to a drug.

(2) Nothing in sub-section (1) shall apply to the manufacture or import, subject to prescribed conditions, of small quantities of any drug for the purpose of clinical trial, examination, test, analysis or personal use ;

24. **Control of advertisement.**—No person shall himself or by any other person on his behalf advertise, except in accordance with such conditions as may be prescribed,—

(*i*) any drug ;

(*ii*) any substance used or prepared for use in accordance with the ayurvedic, unani, homoeopathic or biochemic system of treatment or any other substance or mixture of substances as may be prescribed ;

(*iii*) any remedy, treatment or offer of a treatment for any disease.

Explanation.—In this section, " advertise " means to make any representation by any means whatsoever for the purpose of promoting directly or indirectly the sale or disposal of a drug, a substance or a mixture of substances, a remedy or a treatment except the display of sign boards for a clinic, a dispensary or a hospital or such other institution offering treatment.

25. **Control of sampling.**—No person shall distribute or cause to be distributed any drug as a sample except in accordance with such conditions as may be prescribed.

26. **Control of printing of labelling.**—No person shall print any labelling in respect of any drug which is required to be registered under this Act but is not so registered after the date fixed by the Federal Government under sub-section (6) of section 7 or for a person who does not possess a licence under this Act to manufacture that drug.

CHAPTER IV

OFFENCES, PENALTIES AND PROCEDURE

27. **Penalties.**—(1) Whoever himself or by any other person on his behalf—

(a) exports, imports, manufactures for sale or sells any spurious drug or any drug which is not registered ;

(b) manufactures for sale any drug without a licence ; or

(c) imports without licence any drug for the import of which a licence is required ;

shall be punishable with imprisonment for a term which shall not be less than three years or more than ten years and with fine which may extend to one lakh rupees :

Provided that the Drug Court may, for any special reasons to be recorded, award a sentence of imprisonment for a term of less than three years.

(2) Whoever himself or by any other person on his behalf—

(a) imports, manufactures for sale or sells any counterfeit drug ; or

(b) gives to the purchaser a false warranty in respect of any drug sold by him that the drug does not in any way contravene the provisions of section 23 and is not able to prove that, when he gave the warranty, he had good and sufficient reason to believe the same to be true ; or

(c) applies or permits to be applied to any drug sold, or stocked or exhibited for sale, by him, whether on the container or a label or in any other manner, a warranty given in respect of any other drug ; or

(d) imports, manufactures for sale or sells any drug under a name other than the registered name ; or

(e) exports, imports, manufactures for sale or sells any drug with which any substance, which should not actually be its component, has been mixed or packed so as to reduce its quality or strength or for which any such substance has been substituted wholly or in part ;

shall be punishable with imprisonment for a term which may extend to seven years, and with fine which may extend to one lakh rupees.

(3) Whoever obstructs an Inspector in the exercise of any power conferred upon him by or under this Act, or disobeys the lawful authority of any Inspector, shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to ten thousand rupees, or with both.

(4) Subject to the provisions of sub-section (1), sub-section (2) and sub-section (3), whoever himself or by any other person on his behalf contravenes any of the provisions of this Act or any rule shall be punishable with imprisonment for a term which may extend to five years, or with fine which may extend to fifty thousand rupees, or with both.

28. **Penalty for subsequent offence.**—(1) Whoever having been convicted of an offence under sub-section (1) of section 27 is again convicted of an offence under that sub-section shall be punishable with imprisonment for life or with imprisonment which shall not be less than five years and with fine which may extend to two lakh rupees.

(2) Whoever having been convicted of an offence under sub-section (2) of section 27 is again convicted of an offence under that sub-section shall be punishable with imprisonment for a term which shall not be less than two years or more than ten years, or with fine which may extend to two lakh rupees, or with both.

(3) Whoever having been convicted of an offence under sub-section (4) of section 27 is again convicted of an offence under that sub-section shall be punishable with imprisonment for a term which may extend to seven years, or with fine which may extend to one lakh rupees, or with both.

29. **Forfeiture.**—(1) Where any person has been convicted under this Act, for contravening any such provisions of this Act or any rule as may be prescribed in this behalf, the Drug Court may order that the stock of drug or substance by means of or in relation to which the offence was committed or anything of a similar nature belonging to or in the possession of the accused or found with such drug or substance, and if such contravention is punishable under sub-section (1) of section 27, any implements used in manufacture or sale of such drug and any receptacles, packages or coverings in which such drug is contained and the animals, vehicles, vessels or other conveyances, used in carrying such drug, be forfeited to the Federal Government or, as the case may be, the Provincial Government and, upon such order being made, such drug, substance, implements, receptacles, packages or coverings, animals, vehicles, vessels or conveyances may be disposed of as that Government may direct.

(2) Without prejudice to the provisions of sub-section (1), where the Drug Court is satisfied, on the application of an Inspector or otherwise, and after such inquiry as may be necessary, that a drug contravenes the provisions of this Act, the Drug Court may order that such drug be forfeited to the Federal Government or, as the case may be, the Provincial Government and, upon such order being made, such drug may be destroyed or otherwise disposed of as that Government may **direct.**

(3) An Inspector shall release any drug or article seized by him under this Act when he is satisfied that all the provisions of this Act and the rules with respect there to have been complied with.

30. **Cognizance of offences.**—(1) Subject to the provisions of section 19, no prosecution shall be instituted under this Chapter except—

(*a*) by a Federal Inspector, where the prosecution is in respect of a contravention of clause (h) of sub-section (1) of section 23 or section 24 or any of the provisions of this Act or the rules relating to the import or export of drugs or the manufacture for sale, or sale, of a drug which is not for the time being registered or for the manufacture for sale of which a licence is not for the time being in force ; or

(*b*) by a Provincial Inspector :

Provided that, where the public interest so requires, the Federal Inspector may, with the prior permission of the Federal Government, institute a prosecution for a contravention of any other provision of this Act.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898),—

(*a*) an offence punishable under this Chapter other than an offence mentioned in sub-section (1) of section 27, shall be non-cognizable, and

(*b*) no court other than a Drug Court shall try an offence punishable under this Chapter.

(3) Nothing contained in this Chapter shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence punishable under this Chapter or to require the transfer to a Drug Court of any case which may be pending in any court immediately before the establishment of the Drug Court.

31. **Drug Courts.**—(1) The Federal Government may, by notification in the official Gazette, establish as many Drug Courts as it considers necessary and, where it establishes more than one Drug Court, shall specify in the notification the territorial limits within which, or the class of cases in respect of which, each one of them shall exercise jurisdiction under this Act.

(2) A Drug Court shall consist of a person who is, or has been, or is qualified for appointment as, a Judge of a High Court, who shall be the Chairman, and two members being persons who, in the opinion of the Federal Government, are experts in the medical or pharmaceutical fields.

(3) A Drug Court shall sit at such place or places as the Federal Government may direct.

(4) A Drug Court shall have all the powers conferred by the Code of Criminal Procedure, 1898 (Act V of 1898), on a Court of Session exercising original jurisdiction.

(5) A Drug Court shall not, merely by reason of a change in its composition, be bound to recall and rehear any witness who has given evidence, and may act on the evidence already recorded by or produced before it.

(6) A Drug Court shall, in all matters with respect to which no procedure has been prescribed by this Act, follow the procedure prescribed by the Code of Criminal Procedure, 1898 (Act V of 1898), for the trial of summons cases by Magistrates.

(7) A person sentenced by a Drug Court may prefer an appeal to a bench of the High Court consisting of not less than two Judges within thirty days of the judgment.

(8) The provisions of sections 5 and 12 of the Limitation Act, 1908 (IX of 1908), shall be applicable to an appeal referred to in sub-section (7).

32. **Pleas.**—(1) Save as hereafter provided in this section, it shall be no defence in a prosecution under this Act to prove merely that the accused was ignorant of the nature, substance or quality of the drug in respect of which the offence has been committed or of the circumstances of its manufacture or import, or that a purchaser, having bought only for the purpose of test or analysis, has not been prejudiced by the sale.

(2) A drug shall not be deemed to be misbranded or adulterated or substandard only by reason of the fact that there has been added thereto some innocuous substance or ingredient because the same is required for the manufacture or preparation of the drug fit for carriage or consumption and not to increase the bulk, weight or measure of the drug or to conceal its inferior quality or other defect or there is a decomposed substance which is the result of a natural process of decomposition :

Provided that such decomposition is not due to any negligence on the part of the manufacturer of the drug or the dealer thereof and that it does not render the drug injurious to health or does not make it substandard.

(3) A person, not being the manufacturer of a drug or his agent for the distribution thereof, shall not be liable for a contravention of section 23 if he proves—

(*a*) that he did not know, and could not with reasonable diligence have ascertained, that the drug in any way contravened the provision of this Act and that the drug while in his possession remained in the same state as when he acquired it ; and

(*b*) that he acquired the drug from a duly licensed manufacturer or his authorised agent or an importer or an indentor resident in Pakistan under a written warranty in the prescribed form stating, in particular, the batch number of the drug and signed by such person that the drug does not in any way contravene the provisions of section 23 and that the drug while in his possession was properly stored and remained in the same state as when he acquired it and that the drug has been manufactured by a manufacturer holding a valid licence to manufacture drugs and permission to manufacture that drug :

Provided that a defence under clause (b) shall be open to a person only—

(*i*) if he has, within seven days of the service on him of the summons, sent to the Inspector a copy of the warranty with a written notice statings that he intends to rely upon it and giving the name and address of the warrantor, and

(*ii*) if he proves that he has, within the same period, sent written notice of such intention to the said warrantor.

33. **Application of law relating to customs and powers of officers of customs.**—(1) The law for the time being in force relating to customs and to goods the import of which is prohibited by or under the Customs Act, 1969 (IV of 1969), shall, subject to the provisions of section 27 of this Act, apply in respect of drugs

the import of which is prohibited under this Act, and officers of customs and officers to whom any of the functions of an officer of customs have been entrusted under the said Act shall have the same powers in respect of such drugs as they have for the time being in respect of such goods as aforesaid.

(2) Without prejudice to the provisions of sub-section (1), an officer of customs or a Federal Inspector or any other person as may be authorised by the Federal Government in this behalf may detain any imported package which he suspects to contain any drug the import of which is prohibited under this Act, and shall forthwith report such detention to the licensing authority and, if required by it, forward the package or samples of any suspected drug found therein to a laboratory specified by it.

34. **Offences by companies, etc.**—Where the person guilty of an offence under this Act, is a company, corporation, firm or institution, every director, partner and employee of the company, corporation, firm or institution shall, unless he proves that the offence was committed without his knowledge or consent, be guilty of the offence.

35. **Publication of offender's name.**—(1) If any person is convicted of an offence under this Act, it shall be lawful for the Drug Court to cause the offender's name, place of residence, the offence of which he has been convicted and the penalty which has been inflicted upon him, to be published at the expense of such person in such newspapers or in such other manner as the Court may direct.

(2) The expenses of such publication shall be recoverable in the same manner as a fine is recoverable.

36. **Powers to exempt.**—Notwithstanding anything contained in this Act, the Federal Government may, if it is of opinion that the public interest so requires, at any time, of its own motion or on a representation made to it, by notification in the official Gazette, exempt any drug or class of drugs from the operation of any of the provisions of this Act, subject to such conditions, if any, and for such period, as may be specified in the notification.

37. **Inspectors to be public servants.**—Every Inspector shall be deemed to be a public servant within the meaning of section 21 of the Pakistan Penal Code (Act XLV of 1860), and shall be officially subordinate to such authority as the Government appointing him may specify in this behalf.

38. **Indemnity.**—Except as otherwise expressly provided in this Act, no suit, prosecution or other legal proceeding shall lie against Government or any other authority or person for anything which is in good faith done or intended to be done under this Act or any rule.

39. **Finality of orders, etc.**—Save as otherwise expressly provided in this Act, every order passed or decision given by any Board, a Drug Court or any other authority under this Act shall be final and shall not be called in question by or before any court or other authority.

40. **Publication of result of test or analysis, etc.**—(1) It shall be lawful for the Federal Government to publish, in such manner as it may deem fit, the result of any test or analysis of any drug for public information and to pass such orders relating to the withdrawal of such drug from sale and its disposal as it may consider necessary.

(2) The Federal Government may, if it considers it necessary in the public interest so to do, publish for public information, in such manner as it may deem fit, any information relating to a drug or to the use of a drug in specified circumstances.

41. **Cancellation or suspension of licences.**—Where any person has been found to have contravened any of the provisions of this Act, or the rules in respect of any drug and the contravention is of such a nature that the import, export, manufacture or sale of any drug by such person is, in the opinion of the licensing authority or the Central Licensing Board, likely to endanger public health, that authority may, after giving such person an opportunity of being heard, cancel the licence to import, export, manufacture or sell drugs issued to such person or suspend such licence for a specified period.

42. **Cancellation or suspension of registration of registered drugs.**—Where any person has been found to have contravened any of the provisions of this Act, or the rules in respect of any registered drug, the Registration Board may, after giving such person an opportunity of being heard, cancel the registration of such drug or suspend such registration for a specified period.

CHAPTER V

MISCELLANEOUS

43. **Power of Federal Government to make rules.**—(1) Subject to section 44, the Federal Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing provision, such rule may—

(a) prescribe the functions of the Federal Drug Laboratory and any other laboratory set up under section 14 or specified under section 22 or section 33 and the procedure for the submission to any such laboratory of samples of drugs for analysis or test, the forms of the laboratory's reports thereon and the fees payable in respect of such reports; and such other matters as may be necessary for any such laboratory to perform its functions;

(b) prescribe specifications, including the strength, potency, purity, quality or other property, of any drug, and the methods of test or analysis to be employed in determining whether a drug is of required specifications;

(c) prescribe the maximum proportion of any poisonous or other substance which may be added to or contained in any drug, or extracted or omitted therefrom; prohibit the import, manufacture, sale or stocking or exhibition for sale or distribution of any drug in which that proportion is exceeded and specify substances which shall be deemed to be poisonous;

(d) specify the drugs or classes of drugs for the import or export of which a licence is required, the testing of such drugs, and prescribe the form and conditions of such licences, the authority empowered to issue the same, and the fees payable therefor;

(e) prescribe the places at which any specific drug or drugs may be imported, prohibit their import at any other place, and control their import through any specified agency;

(f) prescribe the evidence to be supplied, whether by accompanying documents or otherwise, of the quality of drugs sought to be imported, the procedure of officers, of customs in dealing with such evidence and the manner of storage at places of import of drugs detained pending admission ;

(g) prescribe the forms of licences for the manufacture for sale of drugs or any specified drugs or class of drugs, the form of application for such licences, the conditions subject to which such licence may be issued, the person under whose signature the same be issued and the fees payable therefor ;

(h) require the date of manufacture and the date of expiry of potency to be clearly and truly stated on the label and container of any specified drug or class of drugs and prohibit the sale, stocking or exhibition for sale or distribution of the said drug or class of drugs after the expiry of a specified period from the date of manufacture or after the expiry date and prescribe the manner of disposal of such drug or class of drugs ;

(i) prescribe the conditions to be observed in the packing in bottles, packages and other containers of drugs and prohibit the sale, stocking or exhibition for sale or distribution of drugs packed in contravention of such conditions ;

(j) regulate the mode of packing and packaging, including its size, dimensions, fill and other specifications, the material used therefor and mode of labelling packed drugs and prescribe the matters which shall or shall not be included in such lebels or on the leaflets accompanying the drugs ;

(k) require that the non-proprietary or chemical or accepted scientific name or the proprietary name of any specified drug or any ingredient thereof shall be displayed in the prescribed manner ;

(l) prescribe the requirements and conditions in respect of good practices in the manufacture and quality control of drugs ;

(m) prescribe conditions for distribution of samples for sales promotion of drugs ;

(n) prescribe the procedure for introduction in Pakistan of a new drug ;

(o) prescribe terms and conditions of members of the Central Licensing Board and the Registration Board ;

(p) prescribe types of registration of drugs, the form of application for such registration, the conditions subject to which such registration may be granted, the manner of registration and post-registration surveillance and deregistration of registered drugs and the fees payable therefor ;

(q) prescribe conditions for registration of indentors, importers, wholesalers and distributors within Pakistan and any establishment within any foreign country engaged in the manufacture for export of a drug and prescribe conditions providing effective and adequate means, by arrangement with the Government of such foreign country or otherwise, to enable the licensing authority or the Registration Board to determine from time to time whether drugs manufactured in such establishment, if imported or offered for import into Pakistan, shall be refused admission where the public interest so requires ;

(r) prescribe the form of warranty for manufactured drugs ;

(s) specify offences in relation to which the stock of drugs, articles or things shall be liable to forfeiture under this Act ;

(t) prescribe the qualifications, and regulate the procedure for exercise of powers and performance of functions, of Federal Inspectors ;

(u) prescribe the laboratories to which the Federal Inspectors shall submit samples of drugs taken for the purpose of test and analysis and the form and procedure for submitting the report of such test and analysis and the fee payable therefor, where so required ;

(v) prescribe measures for securing and maintaining supplies of drugs at reasonable prices, conditions to be met in respect of manufacture, production, pricing, keeping, movement and disposal of drugs and to fix prices, commissions, discount of the manufacturer, wholesaler, distributor, retailer or any other dealer of drugs, to control giving of bonus in cash or kind or in any other manner to any of the said parties and for collecting or calling for any information, statistics, records or books with a view to regulating the matters aforesaid ;

(w) specify drugs which may be advertised and the conditions subject to which such drugs may be advertised ;

(x) prescribe conditions subject to which small quantities of drugs may be imported or manufactured or exported for the purpose of examination, test or analysis, clinical trial or personal use ; and

(y) prescribe any other matter which is to be, or may be, prescribed by the Federal Government.

(3) The power to make rules conferred by this section shall, except on the first occasion of the exercise thereof, be subject to the condition of previous publication.

44. **Power of the Provincial Government to make rules.**—(1) The Provincial Government may by notification in the official Gazette, make rules in respect of the following matters, namely :—

(a) the establishment of laboratories for testing and analysing drugs ;

(b) the qualifications and the procedure, for exercise of powers and performance of functions of Provincial Inspectors ;

(c) the forms of reports to be given by Government Analysts and the manner of application for test or analysis and the fees payable therefor ;

(d) the conditions to regulate sale or storage or distribution of drugs or any specific drug or class of drugs ;

(e) the offences against this Act or any rule in relation to which the stock of drugs shall be liable to confiscation and destruction under this Act ;

(f) the forms of licences for the sale or distribution of drugs or any specified drug or class of drugs, the authority empowered to issue the same, the form of applications for such licences, the fees payable therefor and the conditions subject to which such licences may be issued ;

(g) the procedure to be followed by the Provincial Quality Control Board ; and

(h) any other matter which is to be or may be, prescribed by the Provincial Government.

(2) The power to make rules conferred by this section shall, except on the first occasion of the exercise thereof, be subject to the condition of previous publication.

45. **Repeal and Savings.**—(1) The Drugs Act, 1940 (XXIII of 1940), the Drugs (Generic Names) Act, 1972 (XXIV of 1972), and the Drugs Ordinance, 1976 (IV of 1976), are hereby repealed.

(2) Notwithstanding the repeal of the Drugs Act, 1940 (XXIII of 1940), by sub-section (1),—

(a) Any licence to manufacture for sale issued thereunder to any person, for the revalidation of which an application has already been made to the Central Licensing Board within the date specified by the Federal Government shall continue to be valid until orders are passed by the said Board in this behalf.

(b) Any licence for import or export or sale of drugs issued thereunder to any person, shall, unless it expires earlier under the terms thereof, continue to be valid for such periods as the Federal Government, or as the case may be the Provincial Government may by notification in the official Gazette, specify in this behalf :

Provided that in case of drugs to be imported or exported licences may continue to be issued under the rules framed under the Drugs Act, 1940, till the rules under this Act are framed or as the case may be, a date is fixed under sub-section (6) of section 7 in respect of drugs in the finished form ready for use.

ACT No. XXXII OF 1976

An Act to repeal the Emigration Ordinance, 1976, and to revive the Emigration Act, 1922

WHEREAS it is expedient to repeal the Emigration Ordinance, 1976 (II of 1976), and to revive the Emigration Act, 1922 (VII of 1922) ;

It is enacted as follows :—

1. **Short title and commencement.**—(1) This Act may be called the Emigration Act, 1976.

(2) It shall come into force at once.

2. **Repeal of Ordinance II of 1976 and revival of Act VII of 1922.**—The Emigration Ordinance, 1976 (II of 1976), is hereby repealed and shall be deemed never to have come into force and the Emigration Act, 1922 (VII of 1922), shall stand revived as if it had never been repealed.

M. A. HAQ,
Secretary.

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PART I

Acts, Ordinances, President's Orders and Regulations

NATIONAL ASSEMBLY SECRETARIAT

Islamabad, the 4th June, 1976

The following Acts of Parliament received the assent of the President on the 19th May, 1976, and are hereby published for general information :—

ACT No. XXXIII OF 1976

An Act further to amend the Provincial Motor Vehicles Ordinance, 1965

WHEREAS it is expedient further to amend the Provincial Motor Vehicles Ordinance, 1965 (West Pakistan Ordinance No. XIX of 1965), for the purpose hereinafter appearing ;

It is hereby enacted as follows :—

1. **Short title and commencement.**—(1) This Act may be called the Provincial Motor Vehicles (Amendment) Act, 1976.

(2) It shall come into force at once and shall be deemed to have taken effect on the 18th day of December, 1975.

2. **Amendment of Sixth Schedule, W. P. Ordinance No. XIX of 1965.**—In the Provincial Motor Vehicles Ordinance, 1965 (West Pakistan Ordinance No. XIX of 1965), in the Sixth Schedule, after the entry " Mekran " in the first column and the entry relating thereto in the second column the following entries shall be inserted, namely :—

" Nasirabad	ND
Peshin	PN
Khuzdar	KZ
Kachhi	KI
Kohlu	KU. ".

Price : Ps. 37

3. **Repeal.**—The West Pakistan (Baluchistan 2nd Amendment) Motor Vehicles Ordinance, 1975 (Baluchistan Ordinance No. IV of 1975), and the West Pakistan (Baluchistan 3rd Amendment) Motor Vehicles Ordinance, 1976 (Baluchistan Ordinance No. III of 1976), are hereby repealed.

ACT NO. XXXIV OF 1976

An Act to amend the Provincial Service Tribunals (Extension of Provision of the Constitution) Act, 1974

WHEREAS the Provincial Assembly for Baluchistan has made in the form of a resolution the request that the provisions of clause (2) of Article 212 of the Constitution of the Islamic Republic of Pakistan be extended to the Service Tribunals established under Act of that Assembly;

AND WHEREAS it is necessary to amend the Provincial Service Tribunals (Extension of Provisions of the Constitution) Act, 1974 (XXXII of 1974), for the purpose of extending the aforesaid provisions of the Constitution to the Service Tribunals established under Act of the Provincial Assembly for Baluchistan;

It is hereby enacted as follows :—

1. **Short title and commencement.**—(1) This Act may be called the Provincial Service Tribunals (Extension of Provisions of the Constitution) (Amendment) Act, 1976.

(2) It shall come into force at once.

2. **Amendment of preamble, Act XXXII of 1974.**—In the Provincial Service Tribunals (Extension of Provisions of the Constitution) Act, 1974 (XXXII of 1974), hereinafter referred to as the said Act, in the preamble, after the word "for", the word and comma "Baluchistan," shall be inserted.

3. **Amendment of section 2, Act XXXII of 1974.**—In the said Act, in section 2, for the words "Provincial Assemblies of" the words and comma "Provincial Assemblies for Baluchistan," shall be substituted.

ACT NO. XXXV OF 1976

An Act further to amend the National Guards Act, 1973

WHEREAS it is expedient further to amend the National Guards Act, 1973 (LXI of 1973), for the purposes hereinafter appearing;

It is hereby enacted as follows :—

1. **Short title and commencement.**—This Act may be called the National Guards (Amendment) Act, 1976.

(2) It shall come into force at once.

2. **Amendment of section 36, Act LXI of 1973.**—In the National Guards Act, 1973 (LXI of 1973), after section 36, the following new section shall be inserted, namely :—

> "36A. *Re-employment of officers having reserve liability.*—The Federal Government or any prescribed authority may re-employ suitable retired officers of the Pakistan Army having reserve liability for service with any of the Forces :
>
> Provided that such re-employment shall not relieve the retired officers of their reserve liability.

3. **Repeal.**—The National Guards (Amendment) Ordinance, 1976 (XIII of 1976), is hereby repealed.

ACT No. XXXVI OF 1976

An Act to amend the Compulsory Service in the Armed Forces Ordinance, 1971

WHEREAS it is expedient to amend the Compulsory Service in the Armed Forces Ordinance, 1971 (XXXI of 1971), for the purposes hereinafter appearing ;

It is hereby enacted as follows :—

1. **Short title and commencement.**—(1) This Act may be called the Compulsory Service in the Armed Forces (Amendment) Act, 1976.

(2) It shall come into force at once.

2. **Amendment of section 1, Ordinance XXXI of 1971.**—In the Compulsory Service in the Armed Forces Ordinance, 1971 (XXXI of 1971), hereinafter referred to as the said Act, in section 1, in sub-section (2),—

(a) in clause (a), after the semicolon at the end, the word " or " shall be added ;

(b) in clause (b), for the semicolon and word " ; or " a full stop shall be substituted ; and

(c) clause (c) shall be omitted.

3. **Amendment of section 2, Ordinance XXXI of 1971.**—In the said Act, in section 2,—

(a) in clause (c), for the words and figure " ' essential person ' means a person registered under section 3 of " the words " ' essential persons ' means essential personnel as defined in " shall be substituted ;

(b) after clause (d), the following new clause shall be inserted, namely :—

" (dd) " Inducting Authority " means the Authority nominated by the Service Headquarters for the purpose of selecting essential persons below commissioned rank ; " ; and

(c) after clause (e), the following new clause shall be inserted, namely :—

" (ee) " Interview Board " means the Board constituted by the Service Headquarters for the purpose of selecting essential person for a commissioned rank ; ".

4. **Amendment of section 3, Ordinance XXXI of 1971.**—In the said Act, in section 3, in sub-section (2), for the full stop at the end a colon shall be substituted and thereafter the following proviso and explanation shall be added, namely :—

> "Provided that, in the case of a medical practitioner, such liability shall cease after he has served with the Armed Forces for a period of two years.
>
> *Explanation.*—In this sub-section, 'medical practitioner' means a person who possesses qualifications which are recognised medical qualifications, or, as the case may be, recognised dental qualifications, for the purposes of the Medical and Dental Council Ordinance, 1962 (XXXII of 1962).".

5. **Amendment of section 4, Ordinance XXXI of 1971.**—In the said Act, in section 4,—

(a) for sub-section (1) the following shall be substituted, namely :—

> "(1) The Manpower Board, or such authority as may be empowered by it, shall on requisition from any of the service Headquarters, issue to such essential persons as are to be called up notices in writing requiring them, or direct such persons, to report in person to the Interview Board or, as the case may be, Inducting Authority at such time and place as may be specified in the notice or direction." ;

(b) in sub-section (2), after the word "notices", the words "or directions" shall be inserted ;

(c) in sub-section (3), after the word "notice", the words "or direction" shall be inserted ;

(d) for sub-section (4) the following shall be substituted, namely :—

> "(4) Where such person is known to be serving in a department or office of Government or in an industrial undertaking, a copy of a notice, if any, under sub-section (1), shall at the same time be forwarded to the head of such department or office or, as the case may be, to the owner or manager of such undertaking requiring him to release such person so as to enable him to comply with such notice." ; and

(e) after sub-section (4) amended as aforesaid, the following new sub-section and explanation shall be added, namely :—

> "(5) The owner or manager of an industrial undertaking referred to in sub-section (4) shall not—
>
> (a) obstruct from joining service under this Act in pursuance of a direction under sub-section (1) or sub-section (2) an essential person or *ex*-serviceman who serves upon him a notice of his intention to leave his employment or requests him in person to be released from such employment, or
>
> (b) take any action against an essential person or *ex*-serviceman who, without of formal release from such employment, leaves such employment for joining service under this Act in pursuance of such direction.

Explanation.—In this section and sections 5, 6, 8 and 10, " direct ", with all its grammatical variations, means to direct on the radio, through the press or by any other means. ".

6. **Substitution of section 5, Ordinance XXXI of 1971.**—In the said Act, for section 5 the following shall be substituted, namely :—

" 5. *Obligation to comply with call up notice or direction.*—A person to whom a notice or direction under section 4 has been issued shall report to the authority at the time, date and place specified in the notice or, as the case may be, direction. ".

7. **Amendment of section 6, Ordinance XXXI of 1971.**—In the said Act, in section 6, for sub-section (1) the following shall be substituted, namely :—

" (1) A person—

(a) accepted for service under this Act shall be deemed to have been commissioned, appointed or enrolled, as the case may be, and shall, as from the date he is so accepted, become subject to the law of the Armed Forces concerned, or

(b) provisionally accepted by the Interview Board for a commissioned rank and directed by that Board to wait for receipt of his commissioning orders at his place of present employment or residence shall be granted commission from the date he is finally accepted and shall, as from that date, become subject to the law of the Armed Forces concerned, and shall remain so subject until duly retired, released, discharged, removed or dismissed from service. ".

8. **Substitution of section 8, Ordinance XXXI of 1971.**—In the said Act, for section 8 the following shall be substituted, namely :—

" 8. *Procedure for seeking exemption.*—(1) If a person to whom a notice or direction under sub-section (1) of section 4 has been issued seeks exemption from service under this Act, he shall first report to the Interview Board or, as the case may be, Inducting Authority, at the time, date and place specified in the call up notice or direction and then submit a written representation to the Chairman, Interview Board, or, as the case may be, Inducting Authority, whose decision shall be final.

(2) An *ex*-serviceman desirous of seeking exemption from service under this Act may make a representation to the Service Headquarters concerned, whose decision shall be final. ".

9. **Amendment of section 9, Ordinance XXXI of 1971.**—In the said Act, in section 9—

(a) for sub-section (1) the following shall be substituted, namely :—

" (1) Subject to the other provisions of this section, every employer—

(a) by whom a person was released in pursuance of a notice served on such employer under sub-section (4) of section 4 for joining service under this Act, or

(b) whose employment was left by a person in pursuance of a direction under the said section for joining such service, whether upon a formal release from such employment or othewise, shall, on the termination of such service, reinstate such person in the employment or the assignment from which he was released or which he left and, if such reinstatement is less favourable to such person than that to which he would, in the ordinary course, have been entitled, give him such employment or assignment as is not less favourable :

Provided that the employer shall not be required to so reinstate or employ any person if such person does not apply or report to him for the purpose within three months of his release from service under this Act." ;

(b) in sub-section (2), after the word "concerned", the words "or an authority empowered by the Federal Government" shall be inserted ;

(c) in sub-section (3), after the word "Tribunal", the words and commas "or, as the case may be, the authority empowered under the said sub-section" shall be inserted ; and

(d) in sub-section (5), after the word "Tribunal", the words "or authority" shall be inserted.

10. **Amendment of section 10, Ordinance XXXI of 1971.**—In the said Act, in section 10, in sub-section (1), for clause (b) the following shall be substituted, namely :—

"(b) fails to report in response to a call up notice or direction issued under section 4 ;

(bb) does not release an essential person or *ex*-serviceman in accordance with a notice under sub-section (4) of section 4 ;

(bbb) obstructs from joining service under this Act in pursuance of a direction an essential person or *ex*-serviceman who serves upon him a notice of his intention to leave his employment or requests him in person to be released from such employment ;

(bbbb) takes any action against an essential person or *ex*-serviceman who, without a formal release from such employment, leaves such employment for joining service under this Act in pursuance of a direction ;

(bbbbb) fails to report for service on receipt of commissioning orders after having been provisionally accepted by the Interview Board but directed by it to wait for receipt of his commissioning orders at his place of present employment or residence ; ".

11. **Repeal.**—The Compulsory Service in the Armed Forces (Amendment) Ordinance, 1976 (VII of 1976), is hereby repealed.

ACT No. XXXVII OF 1976

An Act further to amend the Defence of Pakistan Ordinance, 1971

WHEREAS it is expedient further to amend the Defence of Pakistan Ordinance, 1971 (XXX of 1971), for the purpose hereinafter appearing ;

AND WHEREAS the Proclamation of Emergency referred to in Article 280 of the Constitution of the Islamic Republic of Pakistan is in force ;

It is hereby enacted as follows :—

1. **Short title and commencement.**—(1) This Act may be called the Defence of Pakistan (Second Amendment) Act, 1976.

(2) It shall come into force at once.

2. **Amendment of section 9, Ordinance XXX of 1971.**—In the Defence of Pakistan Ordinance, 1971 (XXX of 1971), section 9 shall be renumbered as sub-section (1) of that section and, after sub-section (1) renumbered as aforesaid, the following new sub-sections shall be added, namely :—

> " (2) All cases relating to offences triable by a Special Tribunal and pending in any court immediately before the constitution of the Special Tribunal, or in a Special Tribunal constituted under section 8 immediately before the rescission of the notification constituting it, shall, on such constitution, stand transferred to the Special Tribunal having jurisdiction over such cases.
>
> (3) In respect of cases transferred to a Special Tribunal by virtue of sub-section (2), such Special Tribunal shall not, by reason of the said transfer, be bound to recall and rehear any witness who has given evidence in the case before transfer and may act on the evidence already recorded by or produced before the court or Special Tribunal, as the case may be, which tried the case before the transfer. ".

Act No. XXXVIII

An Act to amend the Publication of the Holy Quran (Elimination of Printing Error) Act, 1973

WHEREAS it is expedient to amend the Publication of the Holy Quran (Elimination of Printing Errors) Act, 1973 (LIV of 1973), for the purposes hereinafter appearing ;

It is hereby enacted as follows :—

1. **Short title and commencement.**—(1) This Act may be called the Publication of the Holy Quran (Elimination of Printing Errors) (Amendment) Act. 1976.

(2) It shall come into force at once.

2. **Amendment of section 2, Act LIV of 1973.**—In the Publication of the Holy Quran (Elimination of Printing Errors) Act, 1973 (LIV of 1973), hereinafter referred to as the said Act, in section 2, for clause (a) the following shall be substituted, namely :—

> " (a) " Ayah " means a sentence, clause or verse of the Holy Quran at the end of which the sign " O " is given in the standard copy ;
>
> (aa) " Committee " means the Committee of Ulema appointed under section 4 ; ".

3. **Amendment of section 5, Act LIV of 1973.**—In the said Act, in section 5, in sub-section (4), in paragraph (a), for the words and brackets " verse (Ayah) ", occurring twice, the word " Ayah " shall be substituted.

4. **Insertion of new section 5A, Act LIV of 1973.**—In the said Act, after section 5 amended as aforesaid, the following new section shall be inserted, namely :—

> " 5A. *Literal distortion of the text of Ayah.*—Where, in a copy of the Holy Quran or in any extract thereof published in a text-book, prayerbook, religious treatise or otherwise, an Ayah has been so literally distorted, either by change of a word, or of sequence, or of Aarab, as to alter its meaning, the printer or publisher thereof, whether registered under this Act or not, shall, unless he can prove that such distortion occurred only due to a printing error, be liable to the punishment provided for in section 6. ".

5. **Amendment of section 8, Act LIV of 1973.**—In the said Act, section 8, in sub-section (2),—

(a) in clause (a), the word " and " at the end shall be omitted ; and

(b) in clause (b), for the full stop at the end a semi-colon shall be substituted and thereafter the following new clauses shall be added, namely :—

"(c) the checking of all such copies of the Holy Quran as have not been certified under this Act as free from errors, at the expense of the publisher ; and

(d) the seizure of such copies of the Holy Quran in which there exist errors which cannot, in the opinion of the prescribed authority, easily be corrected in print. ".

Act No. XXXIX of 1976

An Act further to amend the Land Reforms (Baluchistan Pat Feeder Canal) Regulation, 1972.

WHEREAS it is expedient further to amend the Land Reforms (Baluchistan Pat Feeder Canal) Regulation, 1972, for the purpose hereinafter appearing ;

AND WHEREAS the Proclamation of Emergency referred to in Article 280 of the Constitution is in force ;

It is hereby enacted as follows :—

1. **Short title and commencement.**—(1) This Act may be called the Land Reforms (Baluchistan Pat Feeder Canal) Regulation (Amendment) Act, 1976.

(2) It shall come into force at once.

2. **Amendment of Land Reforms (Baluchistan Pat Feeder Canal) Regulation.**—In the Land Reforms (Baluchistan Pat Feeder Canal) Regulation, 1972, in paragraph 17, in clause (a) of the third proviso, for the figures, letters, words and comma " 31st day of March, 1976 " the figures, letters, words and comma " 31st day of March, 1977 " shall be substituted and shall be deemed to have been so substituted on the first day of April, 1976.

Act No. XL of 1976

An Act to provide for the abolition of the system of Sardari and for matters ancillary thereto;

WHEREAS the system of Sardari, prevalent in certain parts of Pakistan, is the worst remnant of the oppressive feudal and tribal system which, being derogatory to human dignity and freedom, is repugnant to the spirit of democracy and equality as enunciated by Islam and enshrined in the Constitution of the Islamic Republic of Pakistan and opposed to the economic advancement of the people;

AND WHEREAS the Proclamation of Emergency referred to in Article 280 of the Constitution of the Islamic Republic of Pakistan is in force;

It is hereby enacted as follows:—

1. **Short title, commencement and application.**—(1) This Act may be called the System of Sardari (Abolition) Act, 1976.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. **Definition.**—In this Act, unless there is anything repugnant in the subject or context, "Sardar" means a person who is recognized as a Sardar, Tumandar or Chief of the tribe or who, under any custom or usage or otherwise, exercises any of the powers, or enjoys any of the previleges, mentioned in section 3.

3. **Abolition of system of Sardari.**—Notwithstanding any custom or usage, as from the commencement of this Act, the system of Sardari shall stand abolished and no person shall—

(a) exercise any judicial powers not expressly conferred on him by or under any law for the time being in force; or

(b) maintain any private jail; or

(c) save as provided in the Code of Criminal Procedure, 1898 (Act V of 1898), or any other law for the time being in force, arrest or keep in custody any person; or

(d) take free labour from any person or compel any person to labour against his will; or

(e) demand or receive, by reason of being or having been a Sardar, any tribute or any other payment, whether in cash or in kind; or

(f) be in possession of, or derive any benefit from, any land belonging to a tribe, by reason of being or having been a Sardar of the tribe.

4. **Saving.**—Nothing in this Act shall be deemed to prevent the Government from granting to any person such individual service allowance as it may deem fit and requiring such person to discharge such duties and perform such functions as Government may from time to time direct.

5. **Penalty.**—Whoever contravenes any provision of this Act shall be punishable with imprisonment of either description for a term which may extend to three years, or with fine which may extend to ten thousand rupees, or with both.

6. **Repeal.**—The System of Sardari (Abolition) Ordinance, 1976 (No. XV of 1976) is hereby repealed.

M. A. HAQ,
Secretary.

CORRIGENDA

[to the Gazette of Pakistan, Extraordinary, Part I, dated the 19th May, 1976 containing Ordinance No. XX of 1976].

Page 322 : In line 6, *for* "*Regulations,*" *read* "*Regulation,*".
: In line 12, *for* "tenant by" *read* "tenant or".

Page 323 : *Read* clause (a) and subsequent sub-clause (i) to section 6, as—
"(a) in sub-paragraph (1), for the word "A" the words and comma "Subject to the other provisions of this Regulation, a" shall be substituted, and".

: In line 15 from the bottom, *for* '(5) All' *read* '"(5) All'.

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PART I

Acts, Ordinances, President's Orders and Regulations

NATIONAL ASSEMBLY SECRETARIAT

Islamabad, the 15th June, 1976

The following Acts of Parliament received the assent of the President on the 4th June, 1976, and are hereby published for general information :—

ACT No. XLI OF 1976

An Act to amend the Criminal Law Amendment (Special Court) Act, 1976

WHEREAS it is expedient further to amend the Criminal Law Amendment (Special Court) Act, 1976 (XVII of 1976), for the purposes hereinafter appearing ;

It is hereby enacted as follows :—

1. **Short title extent and commencement.**—(1) This Act may be called the Crimnal Law Amendment (Special Court) (Amendment) Act, 1976.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. **Amendment of section 5, Act XVII of 1976.**—In the Criminal Law Amendment (Special Court) Act, 1976 (XVII of 1976), hereinafter referred to as the said Act, in section 5, in sub-section (3),—

(a) after the words " list of ", the words " accused persons or " shall be inserted ; and

(b) in clause (b), after the words " names of ", the words " accused persons or " shall be inserted.

3. **Amendment of section 6, Act XVII of 1976.**—In the said Act, in section 6, in sub-section (1),—

(a) after clause (c), the following new clause shall be inserted, namely :—

" (cc) if any accused is added to the list of accused persons referred to in sub-section (1) of section 5 after the examination of any

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[2237 Ex. Gaz.]

witness and if such accused pleads not guilty or refuses to plead, or claims to be tried, or is not convicted by the Special Court on his plea of guilty (if made), the Special Court may recall and rehear all such witnesses whose evidence in its opinion affects such accused ; " ; and

(b) in clause (g), the words, brackets and figure " sub-section (1) of " shall be omitted.

4. **Repeal.**—The Criminal Law Amendment (Special Court) (Second Amendment) Ordinance, 1976 (XVI of 1976), is hereby repealed.

ACT No. XLII OF 1976

An Act to provide for the promotion and protection of foreign private investment in Pakistan

WHEREAS it is expedient to provide for the promotion and protection of foreign private investment in Pakistan, and for matters ancillary thereto ;

It is hereby enacted as follows :—

1. **Short title, commencement and application.**—(1) This Act may be called the Foreign Private Investment (Promotion and Protection) Act, 1976.

(2) It shall come into force at once.

(3) It shall apply to all industrial undertakings in Pakistan having foreign private investment established with the approval of the Federal Government after the first day of September, 1954 :

Provided that nothing in this Act shall be in derogation of any facilities or protection specifically sanctioned by the Federal Government to foreign private investment in the case of a particular industrial undertaking or a class of industrial undertakings or such facilities or protection as may be available to foreign private investment under a bilateral investment treaty.

2. **Definitions.**—(1) In this Act, unless there is anything repugnant in the subject or context,—

(a) " foreign capital " means investment made by a foreigner in an industrial undertaking in Pakistan—

  (i) in the form of foreign exchange, imported machinery and equipment, or

  (ii) in any other form which the Federal Government may approve for the purpose ;

(b) " foreign private investment " means investment in foreign capital by a person who is not a citizen of Pakistan or by a company incorporated outside Pakistan but does not include investment by a foreign Government or agency of foreign Government ;

(c) " industrial undertaking " means an industry, undertaking or establishment engaged in the production, distribution or processing of any goods, the providing or services specified in this behalf by the Federal Government or the development and extraction of such mineral resources and products as may be specified in this behalf by the Federal Government.

(2) Words and expressions used but not defined in this Act shall have the same meanings as in the Companies Act, 1913 (VII of 1913).

3. **Field for foreign private investment.**—The Federal Government may consistent with the national interest, for the promotion of foreign private investment, authorise such investment in any industrial undertaking—

(a) which does not exist in Pakistan and the establishment whereof, in the opinion of the Federal Government, is desirable ; or

(b) which is not being carried on in Pakistan on a scale adequate to the economic and social needs of the country ; or

(c) which will contribute to—

(i) the development of capital, technical and managerial resources of Pakistan ;

(ii) the discovery, mobilisation or better utilization of the national resources ;

(iii) the strengthening of the balance of payments of Pakistan ;

(iv) increasing employment opportunities in Pakistan ; or

(v) the economic development of the country in any other manner.

4. **Approval of foreign private investment.**—Where the Federal Government sanctions an industrial undertaking having foreign private investment, it may be do so subject to such conditions as it may specify in this behalf.

5. **Protection of agreements.**—(1) Where the Federal Government considers it necessary in the public interest to take over the management of an industrial undertaking having foreign private investment or to acquire the ownership of the shares of citizens of Pakistan in the capital of such industrial undertaking, any agreement approved by the Federal Government relating to such undertakings entered into between a foreign investor or creditor and any person in Pakistan shall not be affected by such taking over or acquisition.

(2) Foreign capital or foreign private investment in an industrial undertaking shall not be acquired except under due process of law which provides for adequate compensation therefore to be settled in the currency of the country of origin of the capital or investment and specifies the principles on and the manner in which compensation is to be determined and given.

6. **Repatriation facilities.**—Subject to the provisions of the Foreign Exchange Regulation Act, 1947 (VII of 1947),—

(a) a foreign investor in an industrial undertaking established after the 1st day of September, 1954, and approved by the Federal Government, may at any time repatriate in the currency of the country from which the investment originated—

(i) foreign private investment to the extent of original investment ;

(ii) profits earned on such investment ; and

(iii) any additional amount resulting from the re-invested profits or appreciation of capital investment ; and

(b) a creditor of an industrial undertaking referred to in clause (a) may repatriate foreign currency loans approved by the Federal Government and interest thereon in accordance with the terms and conditions of the said loan :

Provided that nothing in this section shall affect the terms of the permission to make such investment granted to a foreign investor before the commencement of this Act.

7. **Remittances by foreign employees.**—Foreign nationals employed with the approval of the Federal Government in any industrial undertaking having foreign private investment may make remittances for the maintenance of their dependents in accordance with the rules, regulations or orders issued by the Federal Government or the State Bank of Pakistan.

8. **Tax concession and avoidance of double taxation.**—(1) The Federal Government may allow such concessions to industrial undertakings having foreign private investment as may be admissible under any law for the time being in force.

(2) Foreign private investment shall not be subject to other or more burdensome taxes on income than the applicable to investment made in similar circumstances by citizens of Pakistan.

(3) Foreign private investment shall be allowed all the tax concessions which may be admissible on the basis of any agreement for avoidance of double taxation which the Government of Pakistan may have entered into with the Government of the country of origin of such investment.

9. **Equal treatment.**—Industrial undertakings having foreign private investment shall be accorded the same treatment as is accorded to similar industrial undertakings having no such investment in the application of laws, rules and regulations relating to importation and exportation of goods.

10. **Removal of difficulties.**—If any difficulty arises in giving effect to any provisions of this Act, the Federal Government may make such order, not inconsistent with the provisions of this Act, as may appear to it to be necessary for the purpose of removing the difficulty :

Provided that no such power shall be exercised after the expiry of one year from the commencement of this Act.

11. **Power to make rules.**—The Federal Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act, and such rules may, among other matters, provide for the employment of Pakistani and foreign nationals in industrial undertakings having foreign private investment.

12. **Repeal.** The Foreign Private Investment (Promotion and Protection) Ordinace, 1976 (XIV of 1976), is hereby repealed.

ACT No. XLIII OF 1976

An Act to provide for restrictions on dowry and bridal gifts

WHEREAS it is expedient to provide for restrictions on dowry and bridal gifts and for matters connected therewith or ancillary thereto ;

It is hereby enacted as follows :—

1. **Short title, extent and commencement.**—(1) This Act may be called the Dowry and Bridal Gifts (Restriction) Act, 1976.

(2) It extends to the whole of Pakistan and applies to all citizens of Pakistan

(3) It shall come into force at once.

2. **Definitions.**—In this Act, unless there is anything repugnant in the subject or context,—

(a) "bridal gift" means any property given as a gift before, at or after the marriage, either directly or indirectly, by the bridegroom or his parents to the bride in connection with the marriage but does not include *Mehr*;

(b) "dowry" means any property given before, at or after the marriage, either directly or indirectly, to the bride by her parents in connection with the marriage but it does not include property which the bride may inherit under the laws of inheritance and succession applicable to her;

(c) "marriage" includes betrothal, *nikah* and *rukhsati*;

(d) "parents" includes the guardian of a party to a marriage and any person who provides dowry or bridal gifts and, in the case of a party to a marriage who has no parent, or whose marriage is solemnized in circumstances in which, or at a place at which, no parent is present, such party;

(e) "present" means a gift of any property, not being a bridal gift or dowry, given before, at or after the marriage, either directly or indirectly, to either party to a marriage in connection with the marriage or to the relatives of the bride or bridegroom but does not include *neundra* and *salami*;

(f) "property" means property, both moveable and immoveable, and includes any valuable security as defined in the Pakistan Penal Code (Act XLI of 1860); and

(g) "Registrar" means a *Nikah* Registrar licensed under the Muslim Family Laws Ordinance, 1961 (VIII of 1961), and such other person as may be designated from time to time to perform the functions of the Registrar.

3. **Restriction on dowry, presents and bridal gifts.**—(1) Neither the aggregate value of the dowry and presents given to the bride by her parents nor the aggregate value of the bridal gifts or of the presents given to the bridegroom shall exceed five thousand rupees:

Explanation.—The ceiling of five thousand rupees specified in this sub-section does not in any way imply that the dowry, bridal gifts and presents of a lesser amount may not be given.

(2) No dowry, bridal gifts or presents may be given before or after six months of *nikah*, and, if *rukhsati* takes place some time after *nikah*, after six months of such *rukhsati*.

4. **Restriction on presents.**—No person shall give to either party to the marriage any present the value of which exceeds one hundred rupees ;

Provided that the limit of one hundred shall not apply to the presents given to the bridegroom by the parents of the bride under sub-section (1) of section 3 :

Provided further that the President, the Prime Minister, Federal Minister, Chief Minister, Minister, Minister of State, Adviser, Governor, Speaker, Deputy Speaker, the Chairman or the Deputy Chairman of the Senate, Parliamentary Secretary, Member of the Senate, National Assembly or Provincial Assembly, Government servant or an official serving in any corporation, industry or establishment owned, controlled or managed by Government shall not receive any present in connection with his marriage or the marriage of his son or daughter except from his relations (khandan) :

Provided further that this restriction shall not apply to a Government servant or official serving in the scale below National Pay Scale 17 not exercising in any manner judicial, revenue or executive authority.

5. **Vesting of dowry etc., in the bride.**—All property given as dowry to bridal gifts and all property given to the bride as a present shall vest absolutely in the bride and her interest in property however derived shall hereafter not be restrictive, conditional or limited.

6. **Expenditure on marriage.**—The total expenditure on a marriage, excluding the value of dowry, bride gifts and presents, but including the expenses on *mendhi, barat* and *valima,* incurred by or on behalf of either party to the marriage shall not exceed two thousand and five hundred rupees.

7. **Display of dowry, etc.**—The parents of each party to a marriage shall, at the time of *rukhsati,* display all items of dowry, bridal gifts and presents given or received in connection with the marriage so as to be visible to the person attending the *rukhsati.*

8. **Lists of dowry, etc. to be furnished to Registrar.**—(1) The parents of each party to a marriage shall fiurnish to the Registrar lists of dowry, bridal gifts and presents given or received in connection with the marriage.

(2) The lists referred to in sub-section (1) shall be furnished,—

(a) in the case of property given or accepted before or at the time of the marriage, at the time of the marriage ; and

(b) in the case of property given or accepted after the marriage, within fifteen days of its being given or accepted.

(3) The lists referred to in sub-section (1) shall—

(a) contain details of the proprty alongwith the value thereof ; and

(b) be signed or thumb-marked by the persons furnishing them to the Registrar and attested by at least two witnesses.

(4) The parents of each party to a marriage shall furnish to the Registrar the details of expenditure incurred on the marriage, duly signed or thumb marked by them within one week.

(5) The Registrar shall forward the lists furnished under sub-section (1) and the details of expenditure submitted under sub-section (4) to the Deputy Commissioner within fifteen days of receipt of such list or details of expenditure.

9. **Penalty and procedure.**—(1) Whoever contravenes, or fails to comply with, any provision of this Act or the rules made thereunder shall be punishable with imprisonment of either description for a term which may extend to six months, or with fine which may extend to ten thousand rupees, or with both, and the dowry, bridal gifts or presents given or accepted in contravention of the provisions of this Act shall be forfeited to the Federal Government to be utilized for the marriage of poor girls in such a way as may be prescribed by rules made under this Act :

Provided that if both the parents of a party to the marriage contravene, or fail to comply with, any provision of this Act or the rules made thereunder, action under this section shall be taken only against the father :

Provided further that if the parent who contravenes, or fails to comply with, any provision of this Act or the rules made thereunder is a female, shall be punishable with fine only.

(2) Any offence punishable under this Act shall be triable only by a Family Court established under the West Pakistan Family Courts Act, 1964 (W.P. Act No. XXXV of 1964).

(3) No Family Court shall take cognizance of an offence punishable under this Act except upon a complaint in writing made by, or under the authority of, the Deputy Commissioner within nine months from the date of *nikah*, and if *rukhsati* takes place some time after *nikah*, from the date of such *rukhsati*.

(4) While trying an offence punishable under this Act, a Family Court shall follow the procedure prescribed by the Code of Criminal Procedure, 1898 (Act V of 1898), for the trial of affences by Magistrates.

10. **Power to make rules.**—The Federal Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

11. **Repeal.**—The West Pakistan Dowry (Prohibition on Display) Act, 1967 (West Pakistan Act No. XVI of 1967) and the North-West Frontier Province Dowry Act, 1972 (N.W.F.P. Act No. IX of 1972), are hereby repealed.

ACT No. XLIV OF 1976

An Act further to amend the Code of Criminal Procedure, 1898

WHEREAS it is expedient further to amend the Code of Criminal Procedure, 1898 (Act V of 1898), for the purposes hereinafter appearing ;

It is hereby enacted as follows :—

1. **Short title, extent and commencement.**—(1) This Act may be called the Code of Criminal Procedure (Amendment) Act, 1976.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. **Substitution of Chapter XXIIA, Act V of 1898.**—In the Code of Criminal Procedure, 1898 (Act V of 1898), hereinafter referred to as the Code for Chapter XXIIA the following shall be substituted, namely :—

"CHAPTER XXIIA

TRIALS BEFORE HIGH COURTS AND COURTS OF SESSION

265A. *Trial before Court of Session to be conducted by Public Prosecutor.*— In every trial before a Court of Session, initiated upon a police report, the prosecution shall be conducted by the Police Prosecutor.

265B. *Procedure in cases triable by High Courts and Courts of Session.*— The following procedure shall be observed by the High Courts and the Courts of Session in the trial of cases triable by the said Courts.

265C. *Supply of statements and documents to the accused.*—(1) In all cases instituted upon police report, copies of the following documents shall be supplied free of cost to the accused not later than seven days before the commencement of the trial, namely :—

(a) the first information report ;

(b) the police report ;

(c) the statements of all witnesses recorded under sections 161 and 164 ; and

(d) the inspection note recorded by an investigation officer on his first visit to the place of occurrence and the note recorded by him on recoveries made, if any :

Provided that, if any part of a statement recorded under section 161 or section 164 is such that its disclosure to the accused would be inexpedient in the public interest, such part of the statement shall be excluded from the copy of the statement furnished to the accused.

(2) In all cases instituted upon a complaints in writing,—

(a) the complainant shall—

(i) state in the petition of complaint the substance of the accusation, the names of his witnesses and the list of the evidence which he is likely to adduce at the trial ; and

(ii) within three days of the order of the Court under section 204 for issue of process to the accused, file in the Court for supply to the accused as many copies of the complaint and any other document which he has filed with his complaint as the number of the accused ;

(b) copies of the complaint and any other documents which the complainant has filed therewith and the statements under section 200 or section 202 shall be supplied free of cost to the accused not later than seven days before the commencement of the trial.

265D. *When charge is to be framed.*—If, after persuing the police report or, as the case may be, the complaint, and all other documents and statements filed by the prosecution, the Court is of opinion that there is ground for proceeding with the trial of the accused it shall frame in writing a charge against the accused.

265E. *Plea.*—(1) The charge shall be read and explained to the accused, and he shall be asked whether he is guilty or has any defence to make.

(2) If the accused pleads guilty, the Court shall record the plea, and may in its discretion convict him thereon.

265F. *Evidence for prosecution.*—(1) If the accused does not plead guilty or the Court in its discretion does not convict him on his plea, the Court shall proceed to hear the complainant (if any) and take all such evidence as may be produced in support of the prosecution :

Provided that the Court shall not be bound to hear any person as complainant in any case in which the complaint has been made by a Court.

(2) The Court shall ascertain from the Public Prosecutor or, as the case may be, from the complainant, the names of any persons likely to be acquainted with the facts of the case and to be able to give evidence for the prosecution, and shall summon such persons to give evidence before it.

(3) The Court may refuse to summon any such witness, if it is of opinion that such witness is being called for the purpose of vexation or delay or defeating the ends of justice. Such ground shall be recorded by the Court in writing.

(4) When the examination of the witnesses for the prosecution and the examination (if any) of the accused are concluded, the accused shall be asked whether he means to adduce evidence.

(5) If the accused puts in any written statement, the Court shall file it with the record.

(6) If the accused, or any one of several accused, says that he means to adduce evidence, the Court shall call on the accused to enter on his defence and produce his evidence.

(7) If the accused, or any one of several accused, after entering on his defence, applies to the Court to issue any process for compelling the attendance of any witness for examination or the production of any document or other thing, the Court shall issue such process

unless it considers that the application is made for the purpose of vexation or delay or defeating the ends of justice. Such ground shall be recorded by the Court in writing.

265G. *Summing up by prosecutor and defence.*—(1) In cases where the accused, or any one of several accused, does not adduce evidence in his defence, the Court shall, on the close of the prosecution case and examination (if any) of the accused, call upon the prosecutor to sum up his case whereafter the accused shall make a reply.

(2) In cases where the accused, or any of the several accused, examines evidence in his defence, the Court shall, on the close of the defence case, call upon the accused to sum up the case whereafter the prosecutor shall make a reply.

265H. *Acquittal or conviction.*—(1) If in any case under this Chapter in which a charge has been framed the Court finds the accused not guilty, it shall record an order of acquittal.

(2) If in any case under this Chapter the Court finds the accused guilty the Court shall, subject to the provisions of section 265I, pass a sentence upon him according to law.

265I. *Procedure in case of previous conviction.*—(1) In a case where, by reason of a previous conviction, the accused has been charged under section 221, sub-section (7), the Court, after finding the accused guilty of the offence charged and recording a conviction, shall record the plea of the accused in relation to such part of the charge.

(2) If the accused admits that he has been previously convicted as alleged in the charge, the Court may pass a sentence upon him according to law, and if the accused does not admit that he has been previously convicted as alleged in the charge, the Court may take evidence in respect of the alleged previous conviction, and shall record a finding thereon, and then pass sentence upon him according to law.

265J. *Statement under section 164 admissible.*—The statement of a witness duly recorded under section 164, if it was made in the presence of the accused and if he had notice of it and was given an opportunity of cross-examining the witness, may, in the discretion of the Court, if such witness is produced and examined, be treated as evidence in the case for all purposes subject to the provisions of the Evidence Act, 1872 (II of 1872).

265K. *Power of Court to acquit accused at any stage.*—Nothing in this Chapter shall be deemed to prevent a Court from acquitting an accused at any stage of the case, if, after hearing the prosecutor and the accused and for reasons to be recorded, it considers that there is no probability of the accused being convicted of any offence.

265L. *Power of Advocate-General to stay prosecution.*—At any stage of any trial before a High Court under this Code, before the sentence is passed, the Advocate-General may, if he thinks fit, inform the Court on behalf of Government that he will not prosecute the accused upon the charge; and thereupon all proceedings against the accused shall be stayed, and he shall be discharged of and from the same. But such discharge shall not amount to an acquittal unless the presiding judge otherwise directs.

265M. *Time of holding sittings.*—For the exercise of its original criminal jurisdiction, every High Court shall hold sittings on such days and at such convenient intervals as the Chief Justice of such Court from time to time appoints.

265N. *Place of holding sittings.*—(1) The High Court shall hold its sittings at the place at which it held them immediately before the commencement of the Law Reforms Ordinance, 1972, or at such other place (if any) as the Provincial Government may direct.

(2) But the High Court may, from time to time with the consent of the Provincial Government, hold sittings at such other places wihin the local limits of its appellate jurisdiction as the High Court appoints.

(3) Such officer as the Chief Justice directs shall give prior notice in the official Gazette of all sittings intended to be held for the exercise of the original criminal jurisdiction of the High Court.".

3. **Saving.**—Notwithstanding anything contained in the Law Reforms Ordinance, 1972 (XII of 1972), or in the Code as amended by this Act, any case triable by the Court of Session or High Court and pending, immediately before the commencement of this Act, in such Court, in which no evidence has been recorded before such commencement shall be proceeded with and completed in accordance with the provisions of this Act.

4. **Repeal.**—The Code of Criminal Procedure (Amendment) Ordinance, 1976 (XVIII of 1976), is hereby repealed.

ACT No. XLV OF 1976

An Act to amend the Abandoned Properties (Taking Over and Management) Act, 1975.

WHEREAS it is expedient to amend the Abandoned Properties (Taking Over and Management) Act, 1975 (XX of 1975), for the purposes hereinafter appearing ;

AND WHEREAS the Proclamation of Emergency referred to in Article 280 of the Constitution of the Islamic Republic of Pakistan is in force ;

It is hereby enacted as follows :—

1. **Short title and commencement.**—(1) This Act may be called the Abandoned Properties (Taking Over and Management) (Amendment) Act, 1976.

(2) It shall come into force at once and shall be deemed to have taken effect on the twelfth day of February, 1975.

2. **Amendment of long title and preamble, Act XX of 1975.**—In the Abandoned Properties (Taking Over and Management) Act, 1975 (XX of 1975), hereinafter referred to as the said Act, in the long title and preamble, the words " taking over and " shall be omitted.

3. **Amendment of section 1, Act XX of 1975.**—In the said Act, in section 1, in sub-section (1), the words " Taking Over and " shall be omitted.

4. **Amendment of section 2, Act XX of 1975.**—In the said Act, in section 2, for clause (f) the following shall be substituted, namely :—

> "(f) 'specified person' means a person who, at any time before the sixteenth day of December, 1971, was a citizen of Pakistan domiciled in the territories which before the said day constituted the Province of East Pakistan and who, on or after that day, has ceased or ceases to be a citizen of Pakistan, and includes a company registered in the said territories the registered office of which has not been shifted in pursuance of the Companies (Shifting of Registered Office) Ordinance, 1972 (V of 1972)."

5. **Amendment of section 21, Act XX of 1975.**—In the said Act, in section 21, after the word "amount" occurring for the second time, the commas and words ", alongwith interest thereon at such rate as the Federal Government may, by notification in the official Gazette, specify," shall be inserted.

6. **Amendment of section 29, Act XX of 1975.**—In the said Act, in section 29, after the word "administration", the commas and words ", or disposal in the public interest, by way of transfer or otherwise," shall be inserted.

7. **Repeal.**—The Abandoned Properties (Taking Over and Management) (Amendment) Ordinance, 1976 (XVII of 1976), is hereby repealed.

M. A. HAQ,
Secretary.

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The Gazette of Pakistan

EXTRAORDINARY
PUBLISHED BY AUTHORITY

ISLAMABAD, TUESDAY, JUNE 29, 1976

PART I

Acts, Ordinances, President's Orders and Regulations

NATIONAL ASSEMBLY SECRETARIAT

Islamabad, the 29th June, 1976

The following Act of Parliament received the assent of the President on the 26th June, 1976, and is hereby published for general information :—

ACT NO. XLVI OF 1976

An Act to amend the Quaid-i-Azam's Mazar (Protection and Maintenance) Ordinance, 1971

WHEREAS it is expedient to amend the Quaid-i-Azam's Mazar (Protection and Maintenance) Ordinance, 1971 (XXVII of 1971), for the purposes hereinafter appearing ;

It is hereby enacted as follows :—

1. **Short titlte and commencement.**—(1) This Act may be called the Quaid-i-Azam's Mazar (Protection and Maintenance) (Amendment) Act, 1976.

(2) It shall come into force at once.

2. **Substitution of section 2, Ordinance XXVII of 1971.**—In the Quaid-i-Azam's Mazar (Protection and Maintenance) Ordinance, 1971 (XXVII of 1971),

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[2459 Ex. Gaz.]

hereinafter referred to as the said Ordinance, for section 2 the following shall be substituted, namely :—

"2. *Definitions.*—In this Ordinance, unless there is anything repugnant in the subject or context,—

(a) "Peripheral Area" means the land admeasuring seventy-one acres or thereabout situated outside the grilled boundary wall referred to in clause (b), as described in the plan set out in the Schedule ; and

(b) "Quaid-i-Azam's Mazar" means the Quaid-i-Azam's Mazar at Karachi and the plots of land and structures appurtenant thereto admeasuring sixty-one acres or thereabout surrounded by a grilled boundary wall".

3. **Amendment of section 4, Ordinance XXVII of 1971.**—In the said Ordinance, in section 4, after the words "Quaid-i-Azam's Mazar" the words "and the Peripheral Area" shall be inserted.

4. **Amendment of section 5. Ordinance XXVII of 1971.**—In the said Ordinance, in section 5,—

(a) in sub-section (1),—

(i) after the words "Quaid-i-Azam's Mazar", the words "and the Peripheral Area" shall be inserted ; and

(ii) after the word "maintained", the commas and words ", and the affairs relating thereto shall be managed," shall be inserted ; and

(b) in sub-section (2),—

(i) in clause (d), for the full stop at the end the semicolon and word "; and" shall be substituted ; and

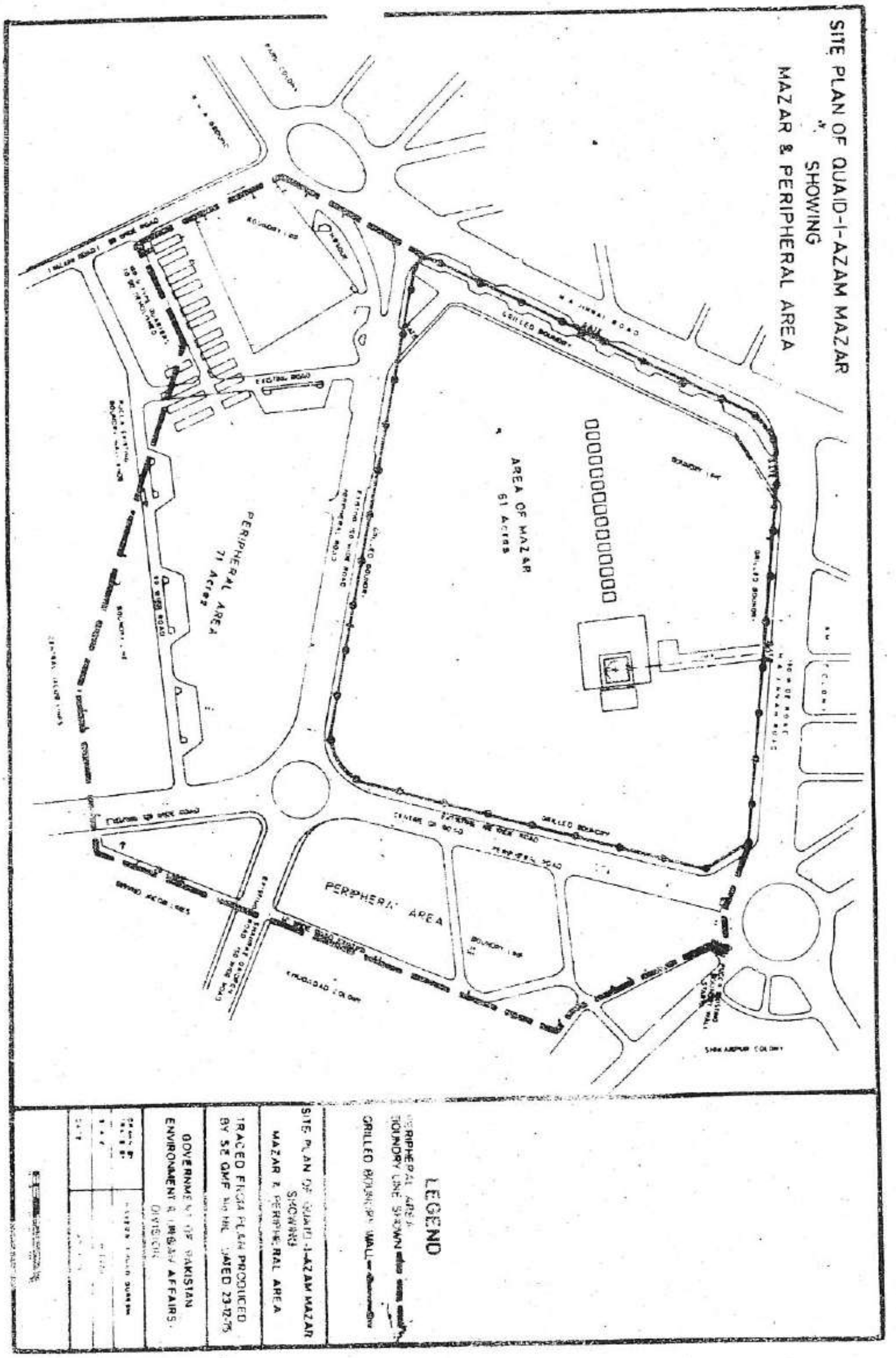
(ii) after clause (d) amended as aforesaid, the following new clause shall be added, namely :—

"(e) any income, profit or gain realised, accrued or derived from the Peripheral Area and any property thereon vesting in the Federal Government.".

5. **Addition of Schedule, Ordinance XXVII of 1971.**—In the said Ordinance, the following new Schedule shall be added at the end, namely :—

"THE SCHEDULE"

[*See* section 2 (a)]


SITE PLAN OF QUAID-I-AZAM MAZAR
SHOWING
MAZAR & PERIPHERAL AREA
M. A. JINNAH ROAD
GRILLED BOUNDRY
AREA OF MAZAR
61 Acres
PERIPHERAL AREA
71 Acres
PERIPHERAL AREA
SHAHJEHAN COLONY
LEGEND
PERIPHERAL AREA
BOUNDRY LINE SHOWN
GRILLED BOUNDRY WALL
SITE PLAN OF QUAID-I-AZAM MAZAR
SHOWING
MAZAR & PERIPHERAL AREA
TRACED FROM PLAN PRODUCED
BY S.E. GMF No. HK DATED 23-12-75
GOVERNMENT OF PAKISTAN
ENVIRONMENT & URBAN AFFAIRS
DIVISION

M. A. HAQ,
Secretary.

CORRIGENDA

[to the *Gazette of Pakistan, Extraordinary* (Part I), dated the 14th January, 26th April, 18th May and 4th June, 1976, containing Act Nos. V. to VII, XVIII to XXIV, XXVI to XXXII and XXXIII to XL of 1976]

Page No. 16.—1st line from top *for* " his its " *read* " his or its ".

,, ,, ,, —16th line from top *for* " consulting engineering " *read* " consulting engineer ".

,, ,, 21—In the Second Schedule, in line 2, " grated " *read* " granted ".

,, ,, 30—7th line from top *for* " immovable untiquity " *read* " immovable antiquity ".

,, ,, 34—1st line from top *for* " conterfeiting " *read* " counterfeiting ".

,, ,, ,, —5th line from top *for* " with, imprisonment " *read* " with imprisonment ".

,, ,, 239—After 5th line from top *add* " ACT NO. XVIII OF 1976 ".

,, ,, 245—17th line from top *for* " with ; of " *read* " with ; or ".

,, ,, ,, —20th line from top *for* " powers of " *read* " powers of a ".

,, ,, 262—At the end of the last line of the page *add* the following :—
" genuinely benevolent, philanthropic or non-commercial basis or is not maintaining proper standards. ".

,, ,, 287—18th line from bottom *for* " species sub-species or forma, and " *read* " species ; and ".

,, ,, 288—2nd line from top *for* " (viii) to advise on import of seeds ; " *read* " (viii) to advise on and arrange for import and export of seeds ;".

,, ,, ,, —2nd line from bottom *for* " pose of,—" *read* " pose of—".

,, ,, 289—18th line from bottom *for* " unless,—" *read* " unless—".

,, ,, 300—3rd line from top *delete* comma occurring *after* the word " deceive".

,, ,, ,, —20th line from bottom *delete* comma occurring *after* the word " treatment ".

,, ,, 302—7th line from bottom *for* " (zz) " *read* " (zd) ".

,, ,, 303—14th line from top *delete* comma occurring *after* the word " prescribed ".

,, ,, ,, —16th line from bottom *delete* comma occurring *after* the word " orders ".

,, ,, 313—12th line from bottom *delete* comma occurring *after* the word " conveyances ".

,, ,, 314—3rd line from top *for* " there to " *read* " thereto ".

,, ,, 318—3rd line from top *delete* comma occurring *after* the word " officers".

,, ,, ,, —25th line from top *for* " lebels " *read* " labels ".

,, ,, 319—4th line from top *delete* comma occurring *after* the word " qualifications ".

,, ,, ,, —5th line from top *delete* comma occurring *after* the word " functions ".

,, ,, ,, —15th line from bottom *delete* the comma occurring *after* the word " procedure ".

,, ,, 347—13th line from bottom *add* comma *after* the word " Act ".

,, ,, ,, —19th line from bottom *for* " Error) " *read* " Errors)".

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The Gazette of Pakistan

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PUBLISHED BY AUTHORITY

ISLAMABAD, WEDNESDAY, JUNE 30, 1976

PART I

Acts, Ordinances, President's Orders and Regulations

NATIONAL ASSEMBLY SECRETARIAT

Islamabad, the 30th June, 1976

The following Act of Parliament received the assent of the President on the 28th June, 1976, and is hereby published for general information :—

ACT No. XLVII OF 1976

An Act to give effect to the financial Proposals of the Federal Government for the year beginning on the first day of July, 1976, and to amend certain laws

WHEREAS it is expedient to make provisions to give effect to the financial proposals of the Federal Government for the year beginning on the first day of July, 1976, and to amend certain laws for the purposes hereinafter appearing ;

It is hereby enacted as follows :—

1. **Short title and extent.**—(1) This Act may be called the Finance Act, 1976.

(2) It extends to the whole of Pakistan.

2. **Amendment of Act XI of 1922.**—The following amendments shall be made in the Income-tax Act, 1922 (XI of 1922), namely :—

(1) after section 3B, the following new section shall be inserted, namely :—

> "3C. *Charge of income-tax on undisclosed income.*—Subject to the provisions of the Fifth Schedule, every person shall pay income-tax, in respect of the undisclosed income, referred to in the said Schedule, at the rate of thirty per cent of such income.";

(2) in section 4, in sub-section (1), after *Explanation* 7, the following further *Explanation* shall be added, namely :—

> "*Explanation* 8.—Where a company has made any loan to any person and has not charged any interest thereon, or the amount charged is at a rate which is less than the specified rate, then, interest calculated at the

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[2460 Ex. Gaz.]

specified rate, as reduced by the amount of interest, if any, received by the company in respect of such loan, shall be deemed to be the income of the company ; and for the purposes of this Explanation—

(*i*) 'specified rate' means rate of interest two per cent above the bank rate notified by the State Bank of Pakistan, as applicable on the date the loan is made by the company ; and

(*ii*) 'loan' does not include any loan made by the company to any of its employees for a specific purpose and in accordance with his terms and conditions of service.";

(3) In section 5A, in sub-section (3), for the words, comma and figure "Registered Accountant enrolled on the Register of Accountants maintained by the Federal Government under the Auditors Certificates Rules, 1950" the words, comma and figure "Chartered Accountant within the meaning of the Chartered Accountants Ordinance, 1961" shall be substituted ;

(4) in section 10,—

(*a*) in sub-section (2), in clause (vi), in sub-clause (aa),—

(*i*) for the words, figures and commas "the 1st day of April, 1954 and the thirtieth day of June, 1975" the words, figures and commas "the first day of July, 1976, and the thirtieth day of June, 1980" shall be substituted ; and

(*ii*) in the Explanation, for the words "four hundred" the words "one thousand" shall be substituted ; and

(*b*) in sub-section (4), in clause (d), in *Explanation* 3, after the words "provident fund", the words "or to an approved superannuation fund" shall be inserted ;

(5) in section 15A,—

(*a*) for clause (a) and clause (b) the following shall be substituted, namely :—

"(*a*) where such income is chargeable under the head "Salaries"	thirty *Per cent* of such income or seven thousand and five hundred rupees, whichever is the less.
(*b*) where such income is chargeable under the head "Profits and gains of business, profession or vocation" and is derived from such profession as may be notified by the Central Board of Revenue	twenty *Per cent* of such income or five thousand rupees, whichever is the less.
(*c*) in other cases	fifteen *Per cent* of such income or three thousand five hundred rupees, whichever is the less."; and

(*b*) in the proviso, for the words "be less than two thousand and five hundred rupees and not more than five thousand rupees" the words "exceed seven thousand five hundred rupees" shall be substituted ;

(6) In section 15B, in sub-section (2), the following proviso shall be added at the end, namely :—

"Provided that this section shall not apply to an industrial undertaking which is formed by the splitting up or the reconstruction or reconstitution of business already in existence or by transfer to a new business of any machinery or plant used in a business which was being carried on in Pakistan on or before the first day of July, 1975.";

(7) in section 15C, in sub-section (3), for clause (c) the following shall be substituted, namely :—

"(*c*) that it is declared by the Controller of Capital Issues or the Central Board of Revenue to be a company engaged in or formed for the purpose of carrying on in Pakistan any—

(*i*) industrial undertaking ;

(*ii*) insurance business ;

(*iii*) transport business ;

(*iv*) business of building houses for sale ; or

(*v*) business, in the case of a Government sponsored finance corporation,

approved by the Controller of Capital Issues or the Central Board of Revenue for the purposes of this Section." ;

(8) after section 15G, the following new section shall be inserted, namely :—

" 15GG. *Tax credit on investment in balancing or modernization or replacement of machinery.*—(1) Where a company, not being a company declared as such under clause (5A) of section 2, installs any machinery between the first day of July, 1976, and the thirtieth day of June, 1979, for the purposes of replacing old machinery or the modernization or balancing of its industrial undertaking, and such machinery is the property of the company and is wholly used for the purposes of such industrial undertaking, a credit equal to ten per cent of the actual cost to the company of such machinery shall be given to it, against the tax payable by it, in the manner hereinafter provided.

(2) The amount of the credit shall first be deducted from the income-tax payable by the company in respect of the previous year in which the machinery was installed and the balance, if any, shall be deducted from super-tax payable in respect of that year :

Provided that where no income-tax or super-tax is payable by a company in respect of such year or where the aggregate amount of income-tax and super-tax payable is less than the amount of the credit, the amount of credit or so much of it as has not been deducted, as the case may be, shall be carried forward and deducted in the manner aforesaid from the income-tax and super-tax payable by the company in the following year and so on, but in no case for more than two years following the year in which the credit under this section becomes admissible for the first time.";

(9) in section 15H, for the words and commas " as does not exceed three thousand rupees where such total income consists of or includes any income chargeable under the head " Salaries " and two thousand rupees in other cases" the following shall be substituted, namely :—

" as does not exceed the following limits, namely :—

(*a*) where such income is chargeable under the head " Salaries "	five thousand rupees.

(*b*) where such income is chargeable under the head " Profits and gains of business, profession or vocation " and is derived from such profession as may be notified by the Central Board of Revenue	three thousand rupees.
(*c*) in other cases	Two thousand and five hundred rupees.";

(10) in section 16,—

(*a*) in sub-section (1), in clause (a),—

(*i*) after the word, figure, letters and comma " section 15CC," the word, figure, letters and comma "section 15CCC," shall be inserted; and

(*ii*) for the words, figures, letters and comma " and section 15F, " the commas, words, figures and letters ", section 15F, section 15H and section 15HH " shall be substituted ;

(*b*) in sub-section (3), in the proviso, after the word " gift " at the end, the words " on which tax under the Gift Tax Act, 1963 (XIV of 1963), if leviable, has been paid " shall be inserted ;

(11) in section 17, in sub-section (5), in the proviso, for the figure " 1977 ", the figure " 1979 " shall be substituted ;

(12) in section 18, after sub-section (3C), the following new sub-section shall be inserted, namely :—

"(3CC) The Collector of Customs shall, in the case of every person who has imported goods into Pakistan against an import licence of the face value of one hundred thousand rupees or more, collect income-tax at the rate of three per cent of the value of the goods as increased by customs duty and sales tax, if any payable thereon ; and the tax so collected shall be given credit for in the assessment for the year next following the year in which it is paid :

Provided that nothing in this sub-section shall apply to any class of persons as may be specified in this behalf by the Central Board of Revenue by notification in the official Gazette." ;

(13) in section 34, in sub-section (2), in the proviso,—

(*a*) in clause (iv), for the full stop at the end a semi-colon shall be substituted ; and

(*b*) after clause (iv) amended as aforesaid, the following new clause shall be added and shall be deemed to have been so added on the twenty-nineth day of June, 1970, namely:—

"(*v*) nothing contained in this section limiting the time within which any action may be taken or any order, assessment or reassessment may be made, shall apply to an assessment or reassessment, as the case may be, made on any person in conformity with a decision of the Supreme Court in any case under section 66A or Article 185 of the Constitution.";

(14) in section 37, in sub-section (1), for the words " Commissioner and " the words and comma " Commissioner, any other officer under the administrative control of the Central Board of Revenue authorised by it in this behalf and the " shall be substituted ;

(15) in section 38A,—

(*a*) in sub-section (1), for the words " and the Inspecting Assistant Commissioner " the comma and words ", the Inspecting Assistant Commissioner or any other Officer under the administrative control of the Central Board of Revenue authorised by it in this behalf " shall be substituted ; and

(*b*) in sub-section (2), after the words " in writing ", the words " or any other officer under the administrative control of the Central Board of Revenue authorised by it in this behalf " shall be inserted ;

(16) after section 66B, the following new section shall be inserted, namely :—

" 66 BB. *Officers to assist income-tax authorities.*—It shall be the duty of all officers of the Police, Customs, Central Excise and Provincial Excise and Taxation Departments to render to the income-tax authorities such assistance in the execution of this Act as may be required of them. " ;

(17) In the First Schedule,—

(*a*) in rule 2A, the words, brackets and letter ' clause (b) of ' shall be omitted ; and

(*b*) in rule 3, the words, brackets and letter ' clause (b) of ' shall be omitted ; and

(18) After the Fourth Schedule, the following new Schedule shall be added, namely :—

" THE FIFTH SCHEDULE

(*See* section 3C)

1. **Definition.**—For the purposes of this Schedule and section 3C, " undisclosed income " of a person means all income, profits and gains of any previous year or years ending before the first day of July, 1975, which were chargeable to tax but were not so charged.

2. **Declaration of income.**—Every person who is chargeable to income-tax under the provisions of section 3C, shall, on or before the thirty-first day of August, 1976, furnish a declaration of his undisclosed income to the Income-tax Officer in such form and verified in such manner as may be prescribed by rules made by the Central Board of Revenue.

3. **Payment of tax.**—(1) Save as provided in sub-rule (2), the income-tax payable on the undisclosed income declared by any person under this Schedule shall be paid by the declarant before making the declaration and the declaration shall be accompanied by proof thereof.

(2) Where the undisclosed income is in the form of assets other than cash, the Commissioner may, on production of such security as he may require, allow the declarant to pay the tax in such manner and within such period as the Commissioner may determine :

Provided that any concession so granted shall not absolve the declarant from paying the additional amount of tax under rule 4.

4. **Additional tax.**—Where any person does not pay the tax due from him as provided for in rule 3, he shall, without prejudice to his liability under any other provision of law, pay an additional amount of tax equal to two per cent per month for the period during which the default continues :

Provided that section 45A shall not apply in the case of a default under this rule.

5. **Prosecution.**—Any person who fails to declare his undisclosed income, or has not declared his undisclosed income fully and truly, shall, on conviction by a special judge under section 54A, be punishable with imprisonment for a term which may extend to five years and also with fine which shall be equal to the income, profits and gains not disclosed.

6. **Concession and immunity.**—Where a person has made a declaration under this Schedule,—

(1) he shall be entitled to incorporate in his books of account such undisclosed income as is in tangible form ; and

(2) he shall not be liable to any charge, levy, penalty, or prosecution under this Act (except the provisions of section 3C and this Schedule), the Sales Tax Act, 1951 (III of 1951), the Wealth-tax Act, 1963 (XV of 1963), or the Central Excises and Salt Act, 1944 (I of 1944), in respect of the income declared under this Schedule :

Provided that for the purposes of the said Wealth-tax Act, the provisions of this clause shall apply only to assessment years preceding the assessment year beginning on the first day of July, 1976.

7. **Power to make rules.**—The Central Board of Revenue may make such rules, or issue such orders, instructions or directions as it may consider necessary to give effect to the provisions of this Schedule or concerned matters connected therewith for which no provision or no sufficient provision exists in this Schedule.

8. **Exceptions.**—Nothing in section 3C and this Schedule shall apply to any person whose case has been assigned or transferred to the Commissioner of Income-tax (Investigation) by the Central Board of Revenue, under section 5, unless the Central Board of Revenue, on application by such person and on such conditions as it deems fit to impose, permits him to make a declaration under this Schedule.

3. **Income-tax and Super-tax.**—(1) Subject to the provisions of sub-sections (2), (3), (4) and (5), in making any assessment for the year beginning on the first day of July, 1976,—

(*a*) income-tax shall be charged at the rates specified in Part I of the First Schedule ; and

(*b*) the rates of super-tax shall, for the purposes of section 55 of the Income-tax Act, 1922 (XI of 1922), be those specified in Part II of the First Schedule.

(2) In making any assessment for the year beginning on the first day of July, 1976 where the total income of a company includes any profits and gains from the life insurance business, super-tax payable by the company shall be reduced by an amount equal to 12.5 per cent of that part of its total income which consists of such inclusion.

(3) In making any assessment for the year beginning on the first day of July, 1976, where the assessee is a cooperative society, the tax shall be payable at the rates specified in paragraph A of Part I, or paragraph B of Part I and paragraph A of Part II of the First Schedule as if the assessee were a company to which the proviso to paragraph A of the said Part II applied, whichever treatment is more beneficial to the assessee.

(4) (a) In making any assessment for the year beginning on the first day of July, 1976, where the total income of an assessee includes any profits and gains derived from export of goods manufactured in Pakistan, income-tax and super-tax, if any, payable in respect of such profits and gains shall, subject to the provisions of clauses (b), (c) and (d), be reduced by an amount equal to fifty per cent of the income-tax and super-tax, if any, attributable to sale proceeds of such goods :

Provided that in the case of a registered firm, super-tax payable by it under paragraph C of Part II of the First Schedule shall be reduced under this clause by so much of such amount calculated on the basis of the income tax payable on its total income under paragraph A of Part I as if it were the total income of an un-registered firm as does not exceed the said super-tax.

(b) Nothing in clause (a) shall apply to a company which has not made such effective arrangements as may be prescribed by the Central Board of Revenue for the declaration and payment in Pakistan of dividends payable out of its profits and gains liable to tax under the Income-tax Act, 1922 (XI of 1922), and for the deduction of tax from such dividends.

(c) Nothing contained in clauses (a) and (b) shall apply in respect of the following goods or class of goods, namely :—

(*i*) raw cotton ;

(*ii*) such other goods as may be notified by the Central Board of Revenue from time to time.

(d) The Central Board of Revenue may make rules providing for the computation of profits and the tax attributable to export sales and for such other matters as may be necessary to give effect to the provisions of this sub-section.

(5) In cases to which section 17 of the said Act applies, the tax chargeable shall be determined as provided in that section, but with reference to the rates referred to in sub-section (1).

(6) For the purposes of making deduction of tax under section 18, of the said Act, the rates specified in Part I and Part II of the First Schedule shall apply as respects the year beginning on the first day of July, 1976, and ending on the thirtieth day of June, 1977.

(7) For the purposes of this section and of the rates of tax imposed thereby, the expression " total income " means total income as determined for the purposes of income-tax or super-tax, as the case may be, in accordance with the provisions of the said Act ; and the expression " public company " means a company—

(*i*) in which not less than fifty per cent of the shares are held by the Government ; or

(*ii*) whose shares were the subject of dealings in a registered stock exchange in Pakistan at any time during the previous year and remained listed on the stock exchange till the close of that year.

4. **Surcharge under Act XI of 1922.**—Surcharge under the Income-tax Act, 1922 (XI of 1922), shall be charged in respect of any assessment for the year beginning on the first day of July, 1976 at the rates specified in Part III of the First Schedule.

5. **Amendment of Act X of 1950.**—In the Estate Duty Act, 1950 (X of 1950), in section 67, in sub-section (3), after the words " provisions of ", the words, brackets and figure " sub-section (1) and " shall be inserted.

6. Amendment of Act XV of 1963.—The following amendments shall be made in the Wealth-tax Act, 1963 (XV of 1963), namely :—

(1) In section 2,—

(*a*) in clause (e), for sub-clause (iii) the following shall be substituted, namely :—

" (*iii*) one residential house owned by an assessee who has exercised the option under sub-paragraph (i) of paragraph (1) of the Schedule ; ";

(*b*) after clause (o), the following new clause shall be inserted, namely :—

" (oo) " public company " means a company—

(*i*) in which not less than fifty per cent of the shares are held by the Government ; or

(*ii*) the shares of which were listed on a registered stock exchange in Pakistan at any time during the previous year and remained so listed till the close of that year; " ; and

(*c*) the existing clause " (oo) " shall be re-lettered as clause " (ooo) " ;

(2) in section 5, in sub-section (1),—

(*a*) in clause (vi), for the semicolon at the end a colon shall be substituted and thereafter the following proviso shall be added, namely :—

" Provided that where the assessee owns more than one car, only one car specified by him shall be so excluded from his net wealth; " ;

(*b*) after clause (xii), the following new clauses shall be added, namely :—

" (*xiii*) investment not exceeding one lakh rupees in stocks or shares of a public company engaged in an industrial undertaking acquired otherwise than by purchase or transfer from a previous holder of such stocks or shares, for a period of two years commencing from the year in which the stocks or shares are issued for public subscription;

(*xiv*) final payment of accumulations in a provident fund referred to in clause (x) and the commuted amount of pension received during the year ;

(*xv*) in the case of a person who is not resident in Pakistan,—

(*i*) assets brought by him into Pakistan, in the year in which they are brought and the following five years ; and

(*ii*) any amount invested in the acquisition of shares or stocks of a company out of remittances received in Pakistan through normal banking channels in the year in which it is invested and the following five years ; " ;

(3) after section 44, the following new section shall be inserted, namely :—

" 44 A. *Officers to assist wealth-tax authorities.*—It shall be the duty of all officers of the Police, Customs, Central Excise and Provincial Excise and Taxation Departments to render to the officers and other persons employed in the execution of this Act such assistance in its execution as may be required of them. " ; and

(4) for the Schedule the following shall be substituted, namely :—

"THE SCHEDULE"

(*See* section 3)

RATES OF WEALTH-TAX

(1) In the case of every individual and Hindu undivided family :—

(*i*) on the first rupees three lakhs of net wealth, or where an assessee exercises the option to have the value of a house specified by him excluded from his assets, on the first rupees two laks of net wealth.......... Nil.

(*ii*) on the next rupees two lakhs of net wealth	1/2%
(*iii*) on the next rupees five laks of net wealth	1%
(*iv*) on the next rupees five lakhs of net wealth	1-1/2%
(*v*) on the next rupees five lakhs of net wealth	2%
(*vi*) on the balance of net wealth	2-1/2%.".

7. **Amendment of Act III of 1951.**—In the Sales Tax Act, 1951 (III of 1951), after section 38, the following new section shall be inserted, namely :——

"38A. *Officers to assist sales tax authorities.*—It shall be the duty of all officers of the Police, Customs, Central Excise and Provincial Excise and Taxation Departments to render to the officers and other persons employed in the execution of this Act such assistance in its execution as may be required of them.".

8. **Amendment of Act I of 1944.**—The First Schedule to the Central Excises and Salt Act, 1944 (I of 1944), shall be amended in the manner specified in the Second Schedule to this Act.

9. **Amendment of Act IV of 1969.**—The amendments set out in the Third Schedule shall be made in the First Schedule to the Customs Act, 1969 (IV of 1969).

10. **Modification of First Schedule to Act IV of 1969.**—The First Schedule to the Customs Act, 1969 (IV of 1969), as amended by this Act, shall have effect as if in the third column thereof,—

(*a*) where the rate of duty is *ad valorem*, for such rate a rate of duty ten per cent *ad valorem* above that rate were substituted ; and

(*b*) where the rate of duty is not *ad valorem*, or is composed of a specific rate and a rate *ad valorem*) a rate of duty ten per cent *ad valorem* above that rate were added.

THE FIRST SCHEDULE

(*See* section 3)

PART I

RATES OF INCOME-TAX

A. In the case of every individual, unregistered firm, an association of persons, Hindu undivided family and every artificial jurridical person referred to in clause (9) of section 2 of the Income-tax Act, 1922 (XI of 1922), not being a case to which paragraph B of this part applies—

1. Where the taxable income does not exceed 10% Rs. 5,000.

2.	Where the taxable incomes exceeds Rs. 5,000 but does not exceed Rs. 10,000.	Rs. 5000 + 20% of the amount exceeding Rs. 5,000.
3.	Where the taxable income exceeds Rs. 10,000 but does not exceed Rs. 20,000.	Rs. 1,500 + 30% of the amount exceeding Rs. 10,000.
4.	Where the taxable income exceeds Rs. 20,000 but does not exceed Rs. 30,000.	Rs. 4,5000 + 40% of the amount exceeding Rs. 20,000.
5.	Where the taxable income exceeds Rs.30,000 but does not exceed Rs. 70,000.	Rs. 8,5000 + 50% of the amount exceeding Rs. 30,000.
6.	Where the taxable income exceeds Rs. 70,000.	Rs. 28,500 + 60% of the amount exceeding Rs. 70,000.

Provided that—

(*i*) no income - tax shall be payable on a total income which before deduction of the sums, if any, exempt under the first and third proviso to sub-section (1) of section 7, section 15, section 15A, section 15AA, section 15C, section 15CC, section 15CCC, section 15D, section 15F, section 15H, section 15HH, section 58F and section 58W of the Income-tax Act, 1922 (XI of 1922) does not exceed Rs. 12,000 ;

(*ii*) where the total income of an assessee exceeds Rs. 12,000 but does not exceed Rs. 15,000, the income-tax payable shall not exceed fifty per cent of the amount by which the total income exceeds Rs. 12,000.

(*iii*) where the total income includes any income from a share of the income, profits and gains of a firm to which paragraph C of Part II applies, such portion of the super-tax payable under the said paragraph as bears to the total amount of such super-tax the same proportion as his share of income, profits and gains of the firm bears to the total income of the firm shall be added to the income-tax payable by such partner under this paragraph and, if the sum so arrived at exceeds sixty per cent of the total income of such partner (including his share of income, profits and gains of the firm), the amount of income-tax payable by him under this paragraph shall be reduced by the amount of such excess.

Explanation.—The expression "taxable income", as used in this paragraph, means —

(*a*) in the case of an assessee to whom or to which clause (a) of sub-section (1) of section 17 of the Income-tax Act, 1922 (XI of 1922), applies, the total income ;

(*b*) in any other case the total income of an assessee as diminished by the allowance admissible under the first and third provisos to sub-section (1) of section 7, section 15, section 15A, section 15AA, section 15C, section 15CC, section 15CCC, section 15D, section 15F, section 15H, section 15HH, section 58F and section 58W of the Income-tax Act, 1922 (XI of 1922).

B. In the case of every local authority and in every case in which, under the provisions of the Income-tax Act, 1922 (XI of 1922), income-tax is to be charged at the maximum rate.	30 *per cent* of the total amount.

C. In the case of every company, being a public company or a foreign association declared to be a company by the Central Board of Revenue under clause (5A) of section 2 of the Income-tax Act, 1922 (XI of 1922), on the total income excluding such part of the total income as consists of any dividends or bonus or bonus shares to which sub-paragraph (3) or sub-paragraph (4) of paragraph A of Part II applies.

30 *per cent* of such income.

D. In the case of every other company, on the total income excluding such part thereof as consists of any bonus or bonus shares to which sub-paragraph (4) of paragraph A of Part II applies.

30 *per cent* of such income.

PART II

RATES OF SUPER-TAX

A. In the case of a company,—

Rates

(1) on the total income, excluding such part of the total income as consists of dividends or bonus or bonus shares to which sub-paragraphs (3) and (4) apply, where such company is a company to which paragraph C of Part I applies.

35 *Per cent* of such income in the case of a banking company and 30 *per cent* of such income in the case of a company other than a banking company.

(2) on the total income excluding such part of the total income as consists of bonus or bonus shares to which sub-paragraph (4) applies where such-company is a company to which sub-paragraph (1) does not apply:

35 *Per cent* of such income in the case of a banking company and 30 *Per cent* of such income in the case of a company other than a banking company:

Provided that where a company, in respect of the profits and gains liable to tax under the Income-tax Act, 1922 (XI of 1922), has made such effective arrangements as may be prescribed by the Central Board of Revenue in this behalf for the declaration and payment in Pakistan of dividends payable out of such profits and gains and for the deduction of tax from such dividends, rebate shall be allowed as follows :—

(*i*) a rebate of 5 per cent to such company not being a banking company if it is a public company ;

(*ii*) a rebate of 5 per cent to such company not being a banking company if it is a public company to which clause (iii) does not apply, if its paid-up capital plus free reserves as on the last day of the previous year does not exceed Rs. 5,00,000;

(*iii*) a rebate of 5 per cent on so much of the income, profits and gains of such company, being a public company, as are derived by it from an industrial undertaking if its paid-up capital plus free reserves as on the last day of the previous year does not exceed Rs. 10,00,000 ;

(*iv*) a rebate of 5 per cent on so much of the income, profits and gains of such company, as are derived by it from an industrial undertaking commencing commercial production at any time between the first day of July, 1975 and the thirtieth day of June, 1980 (both dates inclusive) if the original cost of fixed assets (excluding the cost of land) owned by the company and used by the undertaking does not exceed Rs. 30,00,000, so however that no rebate under clauses (ii) and (iii) shall be allowed to such company ;

(*v*) a rebate of 10 per cent to such company in respect of its income, profits and gains to which sub-section (9) of section 10 of the Income-tax Act, 1922 (XI of 1922), applies or which are derived by it in Pakistan from processing, freezing, preserving and canning of food, vegetable, fruit, grain, meat, fish and poultry:

(*vi*) a rebate of 15 per cent to such company on so much of the income, profits and gains accruing or arising outside Pakistan to which sub-section (4) of section 3 does not apply as are brought by it in Pakistan.

Explanation.—The term "industrial undertaking", as used in clause (iii) means as undertaking which is set up or commenced in Pakistan on or after the 14th day of August, 1947, and which employs (i) ten or more persons in Pakistan and involves the use of electrical energy or any other form of energy which is mechanically transmitted and is not generated by human or animal agency or (ii) twenty or more persons in Pakistan and does not involve the use of electrical energy or any other form of energy which is mechanically transmitted and is not generated by human or animal agency and which is—

(*i*) engaged in—

(*a*) the manufacture of goods or materials or the subjection of goods or materials to any process, which substantially changes their original condition ;

(*b*) ship-building ;

(*c*) generation, transformation, conversion, transmission or distribution of electrical energy, or the supply of hydraulic power ;

(*d*) the working of any mine, oil-well or other source of mineral deposits not being an undertaking to which the Second and Third Schedules to the Income-tax Act, 1922 (XI of 1922) apply ; or

(*ii*) any other industrial undertaking which may be approved by the Central Board of Revenue for the purposes of this clause.

(3) to which paragraph C of Part I applies, on the amount representing income from dividends from a company having its registered office in Pakistan—

	Rates
(*a*) where such dividends are received by a public company and are declared and paid by a company formed and registered in Pakistan under the Companies Act, 1913 (VII of 1913), or a body corporate formed in pursuance of a law within the legislative competence of Parliament in respect of the share-capital issued, subscribed and paid after the fourteenth day of August, 1947.	15 *per cent* of such amount.
(*b*) in other cases.	20 *Per cent* of such amount.

(4) on the whole of the amount representing the face value of any bonus shares or the amount of any bonus issued by the company to its shareholders with a view to increasing its paid-up capital—

	Rates
(*a*) where a company which issued shares or bonus, as the case may be, is a public company.	15 *Per cent* of such amount.
(*b*) in other cases.	20 *Per cent* of such amount.
B. In the case of every local authority on the whole of the total income.	12.5 *Per cent* of the total income.

C. In the case of every registered firm—

(1) where the total income does not exceed Rs. 15,000.	Nil.
(2) where the total income exceeds Rs. 15,000 but does not exceed Rs. 30,000.	5 *Per cent* of the amount exceeding Rs. 15,000
(3) where the total income exceeds Rs. 30,000 but does not exceed Rs. 60,000.	Rs. 750 *plus* 10 *per cent* of the amount exceeding Rs. 30,000.
(4) where the total income exceeds Rs. 60,000 but does not exceed Rs. 1,00,000.	Rs. 3,750 *plus* 20 *per cent* of the amount exceeding Rs. 60,000.
(5) where the total income exceeds Rs. 1,00,000.	Rs. 11,750 + 30 *Per cent* of the amount exceeding Rs. 1,00,000.

Explanation.—The term " registered firm " as used in this paragraph means a firm registered under section 26A of the Income-tax Act, 1922 (XI of 1922), or a firm treated as a registered firm under clause (b) of sub-section (5) of section 23 of the said Act.

PART III

(*See* section 4)

RATES OF SURCHARGE

In the case of persons deriving income from the business of manufacture, purchase or sale of jewellery including gold, silver, precious metals, stones and ornaments or other articles made thereof :	6 *Per cent* of such income ;

Provided that the surcharge shall not be payable by any persons (not being a company) whose total income does not exceed Rs. 12,000.

THE SECOND SCHEDULE

(*See* section 8)

AMENDMENT TO THE FIRST SCHEDULE TO THE CENTRAL EXCISES AND SALT ACT, 1944 (I OF 1944)

In PART I, in SECTION III, in item 6, in sub-item (1), for the entry in column (3) the following shall be substituted, namely :—

" Twenty-five paisa per bottle ".

THE THIRD SCHEDULE

(*See* section 9)

AMENDMENTS IN THE CUSTOMS ACT, 1969 (IV OF 1969)

In the Customs Act, 1969 (IV of 1969), in the First Schedule, against heading Nos. and sub-heads, if any, specified in the first column of the table below, for the entries relating to the "Name of article" and "Rate of duty" the corresponding entries in the second and third columns of the table shall be substituted.

TABLE

Heading No. and sub-head	Name of article	Rate of duty
1	2	3
09.10	Thyme saffron and bay leaves ; other spices :	
	A. Ginger (fresh)	Rs. 2.00 per lb.
	B. Other	50% *ad val.*
22.03	Beer made from malt	Rs. 30.00 per liquid gallon + 25% *ad val.*
22.04	Grape must in fermentation or with fermentation arrested otherwise than by the addition of alcohol	200% *ad val.*
22.05	Wine of fresh grapes ; grape must with fermentation arrested by the addition of alcohol :	
	A. Wines not containing more than 42% of proof spirit :	
	(*i*) Champagne and other sparkling wines	Rs. 100.00 per liquid gallon.
	(*ii*) Other sorts	Rs. 75.00 per liquid gallon.
	B. Wines containing more than 42% of proof spirit ..	Rs. 500.00 per proof gallon + 25% *ad val.*
22.06	Vermouths and other wines of fresh grapes flavoured with aromatic extracts	The duties applicable to heading No. 22.05.
22.07	Other fermented beverages (for example cider perry and mead) :	
	A. Cider	200% *ad val.*
	B. Other	The duties applicable to headings Nos. 22.03 and 22.05.
22.08	Ethyl alcohol or neutral spirits undenatured, of a strength of 80° or higher ; denatured spirits (including ethyl alcohol and neutral spirits) of any strength :	
	A. Denatured spirits	62-1/2% *ad val.*
	B. Other	Rs. 500.00 per proof gallon + 25% *ad val.*

1	2	3
22.09	Spirits (other than those of heading No. 22.08) ; liqueurs and other spirituous beverages ; compound alcoholic preparations (known as "concentrated extracts") for the manufacture of beverages :	
	A. Brandy, Gin, Whisky and other sorts of spirits, not otherwise specified	Rs. 500.00 per proof gallon + 25% *ad val.*
	B. Liqueurs, cordials and mixtures and other preparations containing spirit, not otherwise specified :	
	(*i*) Entered in such a manner as to indicate that the strength is not to be tested	Rs. 750.00 per liquid gallon + 50% *ad val.*
	(*ii*) Not so entered	Rs. 500.00 per proof gallon + 50% *ad val.*
48.01 B (ii)	Paper and paperboard (including cellulose wadding), machine-made, in rolls or sheets :	
	B. Printing and writing paper weighing more than 32 but not more than 220 gramme per square meter :	
	(*ii*) Other	40% *ad val.* subject to a minimum of Rs. 1500.00 per ton.

M. A. HAQ.
Secretary.

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PART I

Acts, Ordinances, President's Orders and Regulations

NATIONAL ASSEMBLY SECRETARIAT

Islamabad, the 19th July, 1976

The following Acts of Parliament received the assent of the President on the 14th and 15th July, 1976, respectively, and are hereby published for general information :—

ACT No. XLVIII OF 1976

An Act further to amend the Land Reforms Regulation, 1972

WHEREAS it is expedient further to amend the Land Reforms Regulation, 1972, for the purposes hereinafter appearing ;

AND WHEREAS the Proclamation of Emergency referred to in Article 280 of the Constitution of the Islamic Republic of Pakistan is in force ;

It is hereby enacted as follows :—

1. **Short title and commencement.**—(1) This Act may be called the Land Reforms (Amendment) Act, 1976.

(2) It shall come into force at once.

2. **Amendment of paragraph 2 of the Land Reforms Regulation, 1972.**—In the Land Reforms Regulation, 1972, hereinafter referred to as the said Regulation, in paragraph 2, in clause (7), for the words "or an educational institution exempted by Government" the words, commas, figures and brackets "a cooperative farming society registered under the Co-operative Farming Ordinance 1976 (XXII of 1976), or a live-stock farm or an educational institution exempted by the Government" may be substituted.

3. **Amendment of paragraph 13 of the Land Reforms Regulation, 1972.**—In the said Regulation, in paragraph 13, for sub-paragraph (3) the following shall be substituted, namely :—

"(3) where any person is in possession of, or is holding, land in excess of the area permissible for retention under Part III, so much of such

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[2646 Ex. Gaz.]

excess land as is in his possession as a lessee or mortgagee or is held by him as the landlord of an occupancy tenant or a *Muqarraridar* or as an *Ala Malik* shall not vest in Government but shall, subject to the other provisions of this Regulation, revert to the lessor, mortgagor, occupancy tenant, *Muqarraridar* or *Adna Malik*, as the case may be, and shall be deemed to have so reverted at the commencement of this Regulation. ".

4. **Amendment of paragraph 22 of the Land Reforms Regulation, 1972.**—In the said Regulation, in paragraph 22, for sub-paragraph (6) the following shall be substituted, namely :—

"(6) Nothing in this paragraph shall apply to—

(a) holdings which are jointly owned by evacuees and non-evacuees and are required to be partitioned in accordance with the procedure prescribed under any Rehabilitation or Settlement Scheme ;

(b) holdings which are jointly owned by owners of land and occupancy tenants or *Muqarraridars*, required to be partitioned in accordance with the procedure prescribed by or under any law for the time being in force ;

(c) small strips of land *bona fide* required for the purpose of building thereon ;

(d) joint khatas when the entire area of a village or deh is redistributed amongst various land owners as a result of consolidation of holdings ; or

(e) a joint holding required to be partitioned for the purpose of separating the land resumed under this Regulation from the land not so resumed.

5. **Amendment of paragraph 24 of the Land Reforms Regulation, 1972.**—In the said Regulation in paragraph 24,—

(a) in sub-paragraph (4), for the proviso the following shall be substituted, namely :—

"Provided that he may alienate the entire holding or, in the case of a holding which is less than a subsistence holding, he may alienate any part of his holding by way of gift to any of his presumptive heirs or exchange with, or mortgage or otherwise alienate to, other owners or landless tenants of the same village, deh or mauza. ".

(b) in sub-paragraph (5), after the word " void " occurring at the end, the words and commas " to the extent by which the economic holding or, as the case may be, subsistence holding is reduced " shall be added ; and

(c) for sub-paragraph (6) the following shall be substituted, namely :—

"(6) Nothing in this paragraph shall apply to—

(a) land, whether cultivable or other, which is *bona fide* required for the purpose of building thereon, and any tenant in possession of such land who refuses to quit after notice may be evicted under the orders of the Deputy Commissioner ;

(b) mortgages of land, without possession, in favour of Government or an institution owned, managed or controlled by Government ;

(c) the holder of a pre-emption decree in respect of an area less than a subsistence holding ;

(d) any land or part of any land situated within the jurisdiction of a Municipality, a Cantonment Board or an Improvement Trust and included in a House Building Scheme prepared or approved by such body ; or

(e) the alienation of land in the districts of Campbellpur, Rawalpindi and Jhelum in favour of a person certified by the Deputy Commissioner concerned to have been displaced from the Hazara District or Mardan District in consequence of the construction of the Tarbela Dam. ".

6. **Amendment of paragraph 25 of the Land Reforms Regulation, 1972.**—In the said Regulation, in paragraph 25,—

(a) in sub-paragraph (1), for the word "A" the words and comma "Subject to the other provisions of this Regulation, a" a shall be substituted, and

(b) after sub-paragraph (4), the following new sub-paragraphs shall be added, namely :—

"(5) All suits for enforcing the right of pre-emption in respect of land comprised in a tenancy shall be exclusively entertained, heard and decided by the Collector within whose jurisdiction the land in respect of which the right of pre-emption has been claimed is situated, and all such suits which may be pending in any court immediately before the commencement of the Land Reforms (Amendment) Ordinance, 1976, shall, on such commencement, stand transferred to the Collector concerned.

(6) Any person aggrieved by an order passed by a Collector under the preceding sub-paragraph may, within thirty days of such order, prefer an appeal to Commissioner.

(7) The Board of Revenue may at any time of its own motion or otherwise call for the record of any case or proceedings under this paragraph which is pending or in which a Collector or Commissioner has passed an order, for the purpose of satisfying itself as to the correctness, legality or propriety of such proceedings or order, and may pass such order in relation thereto as it thinks fit :

Provided that no order shall be passed under this sub-paragraph revising or modifying an order affecting any person unless such person has been afforded an opportunity of being heard :

Provided further that the record of any case or proceedings in which a Collector or Commissioner has passed an order shall not be called for under this sub-paragraph on the application of any aggrieved person made after the expiration of thirty days from the date of such order.

(8) For the purposes of this paragraph a Collector, a Commissioner and the Board of Revenue shall be deemed to be a Civil Court and shall have all powers of a Civil Court under any law for the time being in force and the final order passed in such suits shall be deemed to be a decree of a Civil Court and shall be executed as such.

(9) In computing the limitation provided for in sub-paragraph (6) or sub-paragraph (7), the provisions of section 5 and section 12 of the Limitation Act, 1908 (IX of 1908), shall apply.

Explanation.—In this paragraph, " Collector ", " Commissioner " and " Board of Revenue " have the meaning assigned to them in the West Pakistan Land Revenue Act, 1967 (W.P. Act XVII of 1967). ".

7. **Amendment of paragraph 29 of the Land Reforms Regulation, 1972.**—In the said Regulation, in paragraph 29, in the third proviso, in clause (a), for the figures, letters, words and comma **" 31st day of March, 1976 "** the figures, letters, words and comma " 30th day of September, 1976 " shall be substituted and shall be deemed to have been so substituted on the first day of April, 1976.

8. **Repeal.**—The Land Reforms (Amendment) Ordinance, 1976 (XX of 1976), is hereby repealed.

ACT NO. XLIX OF 1976

An Act further to amend the Industrial Relations Ordinance, 1969

WHEREAS it is expedient further to amend the Industrial Relations Ordinance, 1969 (XXIII of 1969), for the purposes hereinafter appearing ;

It is hereby enacted as follows :—

1. **Short title, extent and commencement.**—(1) This Act may be called the Industrial Relations (Amendment) Act, 1976.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. **Amendment of section 1, Ordinance XXIII of 1969.**—In the Industrial Relations Ordinance, 1969 (XXIII of 1969), in section 1,—

(a) in sub-section (3), after the word " Corporation " at the end, the words, commas and figures " or drawing wages in such pay group, not lower than group V, in the establishment of that Corporation as the Federal Government may, in the public interest or in the interest of security of the airlines, by notification in the official Gazette, specify by notification in the official Gazette, specify in this behalf " shall be added and

(b) after sub-section (3) amended as aforesaid, the following new sub-section shall be inserted, namely :—

" (3A) Without prejudice to the provisions of sub-section (3), for a period of sixty days from the commencement of the Industrial Relations (Amendment) Act, 1976, this Ordinance shall not apply to any person employed in the establishment of the Pakistan International Airlines Corporation.".

3. **Cancellation of registration of certain trade unions.**—Notwithstanding anything contained in the Industrial Relations Ordinance, 1969 (XXIII of 1969), the registration of, and the certificates of registration issued to, all registered trade unions in the establishment of the Pakistan International Airlines Corporation shall stand cancelled.

M. A. HAQ,
Secretary.

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PART I

Acts, Ordinances, President's Orders and Regulations

NATIONAL ASSEMBLY SECRETARIAT

Islamabad, the 21st July, 1976

The following Acts of Parliament received the assent of the President on the 16th July, 1976, and are hereby published for general information :—

ACT No. L OF 1976

An Act further to amend the Pakistan Arms Ordinance, 1965

WHEREAS it is expedient further to amend the Pakistan Arms Ordinance, 1965 (W.P. Ordinance No. XX of 1965), for the purposes hereinafter appearing ;

It is hereby enacted as follows :—

1. **Short title, extent and commencement.**—(1) This Act may be called the Pakistan Arms (Amendment) Act, 1976.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. **Insertion of new section 14A, W. P. Ordinance No. XX of 1965.**—In the Pakistan Arms Ordinance, 1965 (W. P. Ordinance No. XX of 1965), after section 14, the following new section shall be inserted, namely :—

> " 14A. *Certain offences triable by Magistrates.*—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), an offence punishable under section 13 or section 14 shall, unless it has been committed in respect of any of the arms, ammunition or military stores referred to in the proviso to the said section 13, be triable by a Magistrate of the first class.
>
> (2) All cases relating to offences triable by a Magistrate of the first class under sub-section (1) and pending in a Court of Session

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immediately before the commencement of the Pakistan Arms (Amendment) Ordinance, 1976 (XXI of 1976), in which the charge had not been framed shall, on such commencement, stand transferred to the Court of the Magistrate of the first class having jurisdiction over such cases. ".

3. **Repeal.**—The Pakistan Arms (Amendment) Ordinance, 1976 (XXI of 1976), is hereby repealed.

ACT No. LI OF 1976

An Act further to amend the Pakistan Army Act, 1952

WHEREAS it is expedient further to amend the Pakistan Army Act, 1952 (XXXIX of 1952), and to repeal the Commander-in-Chief (Delegation of Powers) Ordinance, 1971 (VI of 1971), for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. **Short title and commencement.**—(1) This Act may be called the Pakistan Army (Amendment) Act, 1976.

(2) It shall come into force at once.

2. **Amendment of section 3, Act XXXIX of 1952.**—In the said Act, in section 3, in sub-section (1), after the word, brackets and letter " clause (c) ", the words, brackets and letter " or clause (d) " shall be inserted.

3. **Amendment of section 8, Act XXXIX of 1952.**—In the said Act, in section 8,—

(i) for clause (2) the following shall be substituted, namely:—

" (2) " Chief of the Army Staff " means the Officer commanding the Pakistan Army;

(3) " civil offence " means an offence which, if committed in Pakistan, would be triable by a criminal court. " ; and

(ii) for clause (12) the following shall be substituted, namely:—

(12) " officer " means a person, other than a junior commissioned officer, commissioned, gazetted or in pay as an officer of the Pakistan Army and includes, in relation to a person subject to this Act when serving under such conditions as may be prescribed, an officer of the Pakistan Navy and an officer of the Pakistan Air Force, ".

4. **Omission of section 9A, Act XXXIX of 1952.**—In the said Act, section 9A shall be omitted.

5. **Amendment of section 15, Act XXXIX of 1952.**—In the said Act, in section 15, in sub-section (1), for the full stop at the end a colon shall be substituted and thereafter the following proviso shall be added, namely:—

> "Provided that, if the person to be attested is a Muslim, this section shall have effect as if reference therein to affirmation were omitted.".

6. **Omission of section 15A, Act XXXIX of 1952.**—In the said Act, section 15A shall be omitted.

7. **Amendment of section 20, Act XXXIX of 1952.**—In the said Act, in section 20, in sub-section (3), for the words "transportation or imprisonment" the words "imprisonment for life or for a shorter term" shall be substituted.

8. **Amendment of section 36, Act XXXIX of 1952.**—In the said Act, in section 36, in sub-section (1), for the words and comma "for the first offence with rigorous imprisonment for a term which may extend to two years or with such less punishment as is in this Act mentioned, and for the second or any subsequent offence with rigorous imprisonment for a term which may extend to ten years" the words "with rigorous imprisonment for a term which may extend to five years" shall be substituted.

9. **Amendment of section 37, Act XXXIX of 1952.**—In the said Act, in section 37 for the words "five years" the words "three years" shall be substituted.

10. **Amendment of section 48, Act XXXIX of 1952.**—In the said Act, in section 48, in clause (a) for the word "of" the word "or" shall be substituted.

11. **Amendment of section 59, Act XXXIX of 1952.**—In the said Act, in section 59, in sub-section (1),—

(a) in clause (a), for the word "transportation" the words "imprisonment for life" shall be substituted; and

(b) in clause (b), the word "with", occurring twice, shall be omitted.

12. **Amendment of section 60, Act XXXIX of 1952.**—In the said Act, in section 60,—

(i) for clause (b) the following shall be substituted, namely:—

"(b) imprisonment for life;"; and

(ii) in the proviso, in clause (1), for the word "transportation" the words "imprisonment for life" shall be substituted.

13. **Amendment of section 62, Act XXXIX of 1952.**—In the said Act, in section 62, sub-sections (1), (2) and (5), for the word "transportation" the words "imprisonment for life" shall be substituted.

14. **Amendment of section 63, Act XXXIX of 1952.**—In the said Act, in section 63, for the word "transportation", wherever occurring, the words "imprisonment for life" shall be substituted.

15. **Amendment of section 65, Act XXXIX of 1952.**—In the said Act, in section 65, in sub-section (2),—

(i) in clause (a), the word and comma "transportation," shall be omitted; and

(ii) in the Explanation, in paragraph (iv), the word and comma "transportation," shall be omitted.

16. **Amendment of section 78, Act XXXIX of 1952.**—In the said Act, in section 78,—

(a) in sub-section (1), for the words "sixty days" the words "thirty days" shall be substituted; and

(b) after sub-section (2), the following new sub-section shall be added namely :—

> "(3) Notwithstanding anything contained in sub-section (1), a person who, after enrolment, fails to report to the corps or unit to which he is required to report within thirty days of the date on which he was required to so report, the commanding officer of the corps or unit shall declare such failure and enter in the court martial book of the corps or unit, as the case may be, a record of the declaration; and if the person in respect of whom such declaration has been made does not afterwards surrender, or is not apprehended, he shall, for the purposes of this Act, be deemed to be a deserter.".

17. **Amendment of section 89, Act XXXIX of 1952.**—In the said Act, in section 89, in sub-section (2), the words "of the judge advocate or" shall be omitted.

18. **Amendment of section 92, Act XXXIX of 1952.**—In the said Act, in section 92, in sub-section (2), in the proviso, after the word and figure "section 31" the words and figure "or section 40" shall be inserted.

19. **Amendment of section 98, Act XXXIX of 1952.**—In the said Act, in section 98, for the word "transportation" the words "imprisonment for life" shall be substituted.

20. **Amendment of section 101, Act XXXIX of 1952.**—In the said Act, in section 101, for the word "transportation" the words "imprisonment for life" shall be substituted.

21. **Insertion of new section 108A, Act XXXIX of 1952.**—In the said Act, after section 108, the following new section shall be inserted, namely :—

> "108A. *Affirmation not allowed in the case of Muslim.*—Where the person referred to in section 106 or section 107 or section 108 is a Muslim, the said section shall have effect as if reference therein to affirmation were omitted.".

22. **Amendment of section 124, Act XXXIX of 1952.**—In the said Act, in section 124,—

(a) for the words "transportation for life" the words "imprisonment for life" shall be substituted;

(b) in the first proviso,—

(i) for the word "transportation" the words "imprisonment for life" shall be substituted; and

(ii) for the colon at the end a full stop shall be substituted; and

(c) the second proviso shall be omitted.

23. **Amendment of section 131, Act XXXIX of 1952.**—In the said Act, in section 131, in sub-section (1), for the words and comma "prescribed officer, provided that such prescribed officer is higher in rank than" the words "prescribed officer who is superior in command to" shall be substituted.

24. **Amendment of section 135, Act XXXIX of 1952.**—In the said Act, in section 135, for the word "transportation" the words "imprisonment for life" shall be substituted.

25. **Amendment of section 136, Act XXXIX of 1952.**—In the said Act, in section 136, for the word "transportation", thrice occurring, the words "imprisonment for life" shall be substituted.

26. **Omission of section 139, Act XXXIX of 1952.**—In the said Act, section 139 shall be omitted.

27. **Amendment of section 140, Act XXXIX of 1952.**—In the said Act, in section 140, for the word "transportation" the words "imprisonment for life" shall be substituted.

28. **Amendment of section 143, Act XXXIX of 1952.**—In the said Act, in section 143,—

(i) in sub-section (1), in the proviso, the words and comma "transportation shall not be commuted for a sentence of rigorous imprisonment for a term exceeding the term of transportation awarded by the court, and a sentence of" shall be omitted; and

(ii) in sub-section (2), in the proviso, for the word "transportation" the words "imprisonment for life" shall be substituted.

29. **Amendment of section 144, Act XXXIX of 1952.**—In the said Act, in section 144, for the word "transportation" the words "imprisonment for life" shall be substituted.

30. **Amendment of section 166, Act XXXIX of 1952.**—In the said Act, in section 166, in clause (1) for the words "sixty days" the words "thirty days" shall be substituted.

31. **Amendment of section 176, Act XXXIX of 1952.**—In the said Act, in section 176, in sub-section (2), in clause (i), for the word "transportation" the words "imprisonment for life" shall be substituted.

32. **Insertion of new sections 176B, 176C and 176D, Act XXXIX of 1952.**—In the said Act, after section 176A, the following new sections shall be inserted, namely :—

"176B. *Reference to Commander-in-Chief in other Laws.*—Reference in any law, and in any rule, regulation, bye-law, notification, order, warrant, bond, document or other instrument made or issued under any law, to the "Commander-in-Chief" in relation to the Pakistan Army shall be construed as reference to the Chief of the Army Staff.

176C. *Delegation of powers of the Chief of the Army Staff.*—(1) Federal Government may, by order in writing, authorise the officer appointed as Deputy Chief of the Army Staff to exercise and perform, during any period when the Chief of the Army Staff is absent on leave or otherwise, all or any of the powers and functions vested in him, as such Chief of the Army Staff, under any law or under any rules, regulations, orders and instructions for the time being in force.

(2) The Deputy Chief of the Army Staff shall exercise the powers and perform the functions conferred upon him under sub-section (1) in accordance with such general or special directions as may be given in that behalf by the Federal Government.

176D. *Validation.*—Any power or function of the Commander-in-Chief, Pakistan Army, which has been exercised or performed by the Chief of Staff of the Pakistan Army or the Chief of the Army Staff or by an acting Chief of Staff of the Pakistan Army or by an acting Chief of the Army Staff or by an officer under the command or the authority of any of them at any time on or after the third day of March, 1972, and before the commencement of the Pakistan Army (Amendment) Act, 1976, shall be deemed to have been validly exercised or performed as if the Chief of Staff of the Pakistan Army, or the Chief of the Army Staff or the acting Chief of Staff of the Pakistan Army or the acting Chief of the Army Staff or such other officer as aforesaid, as the case may be, were duly authorised to exercise such power or perform such function.".

33. **Omission of Chapter XVI, Act XXXIX of 1952.**—In the said Act, Chapter XVI shall be omitted.

34. **Repeal.**—The Commander-in-Chief (Delegation of Powers) Ordinance, 1971 (VI of 1971), is hereby repealed.

M. A. HAQ,
Secretary.

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PART I

Acts, Ordinances, President's Orders and Regulations

NATIONAL ASSEMBLY SECRETARIAT

Islamabad, the 24th July, 1976

The following Act of Parliament received the assent of the President on the 19th July, 1976, and is hereby published for general information :—

ACT No. LII OF 1976

An Act to provide for the formation, working and promotion of co-operative farming

WHEREAS it is expedient to provide for the formation, working and promotion of co-operative farming and setting up of allied agro-based industries on the basis of self-help and mutual aid amongst the farmers and matters ancillary thereto or connected therewith ;

AND WHEREAS the Provincial Assemblies of the Provinces of Baluchistan, the North-West Frontier, the Punjab and Sind have passed resolutions under clause (1) of Article 144 of the Constitution of the Islamic Republic of Pakistan to the effect that Parliament may, by law, regulate the formation, working and promotion of co-operative farming and setting up of allied agro-based industries on the basis of self-help and mutual aid amongst the farmers ;

It is hereby enacted as follows :—

CHAPTER I

PRELIMINARY

1. **Short title, extent and commencement.**—(1) This Act may be called the Co-operative Farming Act, 1976.

(2) It extends to the whole of Pakistan.

Price : Ps. 37

(3) It shall come into force at once.

2. **Act to override other laws.**—The provisions of this Act and the rules shall have effect notwithstanding anything contained in the Co-operative Societies Act, 1925 (Act VII of 1925), or in any other law for the time being in force relating to the rights of landlords and tenants.

3. **Definitions.**—In this Act, unless there is anything repugnant in the subject or context,—

(a) 'agricultural year' has the same meaning as in the West Pakistan Land Revenue Act, 1967 (W. P. Act No. XVII of 1967);

(b) 'bye-laws' means bye-laws registered under this Act;

(c) 'committee' means the managing committee of a society;

(d) 'co-operative farm' means the total land pooled by the members of a society;

(e) 'District Co-operative Council' means a District Co-operative Council formed under section 39;

(f) 'District Co-operative Federation' means a District Co-operative Federation of Co-operative Farming Societies formed under section 35;

(g) 'member' means a member of a society;

(h) 'National Co-operative Council' means the National Co-operative Council constituted under section 43;

(i) 'nation building department' means the departments which the Provincial Government may, by notification in the official Gazette, designate as such for the purposes of this Act;

(j) 'net profits' means net profits as defined in sub-section (3) of section 87C of the Companies Act, 1913 (VII of 1913);

(k) 'office-bearers' means the Chairman, Vice-Chairman, Secretary and Treasurer of a Committee;

(l) 'prescribed' means prescribed by rules;

(m) 'produce index units' means the measures in terms of which the comparative productivity of an area of land of a particular kind in a particular assessment circle or area is computed and expressed for the purposes of the schemes relating to the re-settlement of displaced persons on land and, in respect of any assessment circle or area where no such units have been determined, such measures as may be prescribed;

(n) 'produce income' means the total income derived from all earnings of the co-operative farm before deducting any expenses;

(o) 'Provincial Co-operative Council' means a Provincial Co-operative Council formed under section 41;

(p) 'Provincial Co-operative Federation' means a Provincial Co-operative Federation of Co-operative Farming Societies formed under section 37;

(q) 'Registrar' means a person appointed to perform the duties of Registrar of Co-operative Societies under the Co-operative Societies

Act, 1925 (Act VII of 1925), and includes an officer authorised by Government to perform the duties of Registrar under this Act ;

(r) 'rules' means rules made under this Act ;

(s) 'society' means a co-operative farming society registered under this Act ;

(t) 'tenant' means tenant as defined in the Punjab Tenancy Act, 1887 (Punjab Act No. XVI of 1887) ; and

(u) 'value' in relation to land, means the value as evaluated under section 13.

CHAPTER II

REGISTRATION OF SOCIETIES

4. **Conditions of registration.**—(1) A co-operative farming society which fulfils the following conditions may apply to the Registrar for registration under this Act, namely :—

(a) it consists of not less than twenty members ;

(b) the total land pooled by its members is—

  (i) in the case of the Provinces of Baluchistan, the Punjab and Sind, not less than five hundred acres ; and

  (ii) in case of the North-West Frontier Province, not less than three hundred acres ; and

(c) the land pooled by its members forms one contiguous farm.

(2) An application under sub-section (1) shall be made in such form, and be accompanied by such documents, as may be prescribed.

5. **Procedure of registration.**—If, after making such enquiry as he considers necessary, the Registrar is satisfied that a co-operative farming society applying for registration is eligible for registration under this Act, and that the bye-laws proposed to be framed by it are not inconsistent with any of the provisions of this Act, or the rules, he shall register it, and its bye-laws, within fifteen days from the receipt of its application.

6. **Evidence of registration.**—A certificate of registration signed by the Registrar shall be conclusive evidence that the society mentioned therein is duly registered, unless it is proved that the registration of the society has been cancelled.

7. **Amendment of the bye-laws of a society.**—(1) No amendment of the bye-laws of a society shall be effective unless it is registered with the Registrar.

(2) If the Registrar is satisfied that an amendment of the bye-laws proposed to be made by a society is not inconsistent with any of the provisions of this Act or the rules he shall register the amendment.

CHAPTER III

MEETINGS

8. **General meeting.**—Every society shall call an annual general meeting of its members and not less than one other general meeting in an agricultural year.

9. **Special general meeting.**—(1) On a requisition signed by not less than one-fifth of the total number of members of a society, the Chairman shall call a

special general meeting of the society within thirty days of the receipt of the requisition.

(2) If the Chairman does not call the meeting within the time specified in sub-section (1), the Registrar shall direct the Chairman to call the meeting within a period of seven days and, if the Chairman fails to do so, may himself call the meeting.

CHAPTER IV

MANAGING COMMITTEE AND RIGHTS AND LIABILITIES OF MEMBERS.

10. **Managing committee of a society.**—(1) Each member shall have one vote irrespective of the area of the land pooled by him ; provided that in case of a deceased member all his heirs who want to remain members shall be registered and shall have the right to vote.

(2) The members shall, in their annual general meeting, elect, by majority of votes,—

(a) a managing committee consisting of not less than seven and not more than eleven members, including the office-bearers ; and

(b) one representative for the District Co-operative Federation.

(3) A member of a committee, including an office-bearer, and the representative shall, unless he resigns or is removed from office earlier, hold office for a term of two years.

(4) No member of a committee or an office-bearer or the representative shall hold office for more than two consecutive terms.

(5) Subject to such decisions, if any, as may be taken in a general meeting of a society, the management of the affairs of a society shall vest in the committee.

(6) A member of a committee, including an office-bearer or the representative, may be removed from office by a resolution passed by a majority of the total number of members of a society in an annual general meeting or a meeting requisitioned for this purpose by not less than one-third of the total number of members.

(7) Any member of a committee, including an office-bearer, may by writing under his hand addressed to the Chairman, resign his office.

11. **Pooling of land.**—(1) Every member shall, subject to the provisions of clause (c) of sub-section (1) of section 4, pool his entire holding without affecting his ownership of the holding in any way :

Provided that a member or group of members owning a subsistence holding may retain for his or their personal use an area not exceeding—

(a) in the case of Baluchistan, two acres ; and

(b) in the case of the other Provinces, one acre :

Provided further that a member or group of members pooling more than a subsistence holding may retain for his or their personal use such area not exceeding—

(a) in the case of Baluchistan, four acres ; and

(b) in the case of the other Provinces, two acres;

as may be determined by the committee:

Provided further that the location of the area to be so retained may be determined by the committee:

Provided further that a member owning less than a subsistence holding shall not be entitled to retain any land for his personal use.

Explanation.—In this section, 'subsistence holding' shall have the same meaning as in the Land Reforms Regulation, 1972.

(2) All land pooled for a co-operative farm by members shall, for the purposes of management, vest in the society.

12. **Liability of members.**—The liability of a member shall be limited to the value of the land pooled by him.

13. **Evaluation of land, etc.**—(1) The land pooled by each member for a co-operative farm shall be evaluated by the Managing Committee according to its quality and area on the basis of produce index units.

(2) If any land pooled by a member for a co-operative farm contains orchards, ponds or any other immovable structures, the value of the orchards, ponds and other structures shall be assessed by the Managing Committee and added to the shares of such member :

Provided that trees other than orchards shall continue to be the property of the member and the value thereof shall not be assessed or added to his share:

Provided further that, if the committee decides to remove such trees or structures standing on any land, such trees or structures shall be removed on payment to the owner of such land of such compensation as may be determined by the committee.

14. **Withdrawal from membership.**—(1) A member who has been a member of a society for not less than three years may, by notice under his hand addressed to the Chairman and delivered to him by the thirty-first day of March in any year, withdraw from membership of the society.

(2) Where, due to the death of a member, the rights and liabilities of the member devolve upon his legal heirs or successors and any of the heirs or successors is a minor the rights and liabilities of the minor shall be the rights and liabilities of his guardian until such time as the minor attains majority.

(3) A minor referred to in sub-section (2) may, after he attains majority, withdraw from the membership of the society in the manner provided for in sub-section (1) if the land owned by him has formed part of the co-operative farm for not less than three years.

(4) On a member withdrawing from the membership of a society —

(a) he shall cease to be member on and from the first day of July following the day on which he gives notice of his withdrawal;

(b) the land pooled by him shall revert to him on the aforesaid day subject to any encumbrances that may have been created on it by the society, to such extent as may be determined by the society;

(c) he shall not be entitled to any share in the Development Fund or to any right or interest in anything established or purchased out of that Fund; and

(d) he shall pay to the society, towards the cost of tubewells installed, residential houses, sheds or other structures raised, or improvements done, on his land by the society, such amount, and in such manner, as may be determined by the society.

(5) As soon as may be after a person ceases to be a member, his name shall be notified to the Registrar for removal from membership.

15. **Admission of new members.**—(1) Subject to the other provisions of this Act, a committee may admit to the membership of the society any owner of land who pools his land:

Provided that no owner of land shall be so admitted except after the close of the agricultural year during which the society is registered.

(2) As soon as may be after an owner of land is admitted as a member under sub-section (1), his name shall be notified to the Registrar.

CHAPTER V

PRIVILEGES AND LIABILITIES OF SOCIETIES

16. **Societies to be bodies corporate.**—A society shall be a body corporate by the name under which it is registered, having perpetual succession and a common seal, with power to hold property, both movable and immovable, and shall by the said name sue and be sued.

17. **Office of society.**—Every society shall have its office at such place within the co-operative farm as it may decide.

18. **Copy of Act, etc., to be open to inspection.**—Every society shall keep open to inspection at all reasonable times at the registered address of the society, free of charge,—

(a) a copy of this Act,

(b) a copy of the rules governing such society,

(c) a copy of the bye-laws of such society, and

(d) a register of its members.

19. **Liability in respect of encumbrances on land.**—Where the land pooled by a member is subject to any encumbrances, such encumbrances shall continue to be the liability of such member.

20. **Audit and accounts.**—(1) The accounts of a society shall be maintained in the prescribed manner, shall be audited every year by an auditor or auditors appointed at each Annual General Meeting out of a list of auditors prepared by the Registrar and shall be laid before the Annual General Meeting for adoption.

(2) An auditor appointed under sub-section (1) shall have power—

(a) to summon at the time of audit any officer, agent, servant and member, past or present, of the society whom he has reason to believe can give material information in regard to any transaction of the society or the management of its affairs; and

(b) to require the production of a book or document relating to the affairs of, or any cash or security belonging to, the society, by the officer, agent, servant or member believed by the auditor to be in possession of such book, document, cash or security.

(3) An auditor appointed under sub-section (1) shall hold office until the next Annual General Meeting and shall paid such fees as may be determined by the Annual General Meeting.

21. **Transfer of interest on death of a member.**—On the death of a member, the rights, interests and liabilities of the member shall devolve on the legal heirs or successors of the member and such legal heirs or successors shall become the members of the society in place of the deceased member.

CHAPTER VI

PROPERTY AND FUNDS OF THE SOCIETY

22. **Assets of the Society.**—(1) A society shall have its own assets consisting of its properties built or acquired out of the Development Fund and such funds and properties as may be prescribed.

(2) A society may purchase any land or other property for the purposes of setting up its office or any agro-based industry or for such other projects of public utility.

(3) Subject to such limits as may be prescribed, a society may, in so far as may be necessary for the purposes of the society, borrow money on the security of its property or of land forming part of the co-operative farm.

(4) Where a society borrows money on the security of its property and also of the land forming part of the co-operative farm, the society shall, as far as practicable, repay the loan obtained by it on the security of such land in priority to the other loans.

23. **Provisions for Reserve Fund, Development Fund and other expenses.**—(1) Every society shall maintain a Reserve Fund and a Development Fund.

(2) The Reserve Fund shall be utilized to meet natural calamities affecting the co-operative farm or other property of the society and for such other purposes, and in such manner, as the committee may determine.

(3) The Development Fund shall be utilized for the development of the co-operative farm and establishment of agro-based industries, hospitals and schools and for such other purposes as may be determined by the society.

(4) Every society may recover from the produce income of the co-operative farm sufficient amount to meet its office expenditure, for the contribution it has to make to the District Co-operative Federation and for the payment of fees to the auditors and of such travelling allowance and daily allowance to its representatives for attending meetings of the District Co-operative Federation as it may from time to time determine.

24. **Distribution of produce income of co-operative farm.**—Out of the produce income of the co-operative farm the direct expenses on account of agricultural inputs, including seeds, fertilizers, pesticides, water charges, land revenue, maintenance of tractors, tubewells farm animals and agricultural implements, consumption of electricity, depreciation on fixed assets and the expenses referred to in sub-section (4) of section 23, shall first be deducted and the balance shall be distributed as follows, namely :—

(a) not less than five per cent each for the Reserve Fund and Development Fund shall be set apart ; and

(b) of the remaining amount, forty per cent shall be distributed amongst the members in proportion to the value of the land pooled by them and sixty per cent amongst the workers, including working members, and other staff working on the farm according to the quality and quantity of the work done, as determined by the committee.

25. **Distribution of profits.**—The net profits of a society from sources other than the co-operative farm shall be distributed as follows, that is to say,—

(a) one-third shall be set apart for credit to the Development Fund and repayment of loans, in such proportion as may be determined by the society ; and

(b) the remaining two-thirds shall be distributed amongst the members in proportion to the value of the land pooled by them.

26. **Rights of tenants, etc.**—(1) The tenants of the land pooled by a member for a co-operative farm shall stand ejected from such land upon its being so pooled.

(2) The tenants ejected from any land by virtue of sub-section (1) shall be given preference in providing employment on the co-operative farm or in the agro-based industries of the society and, if a member withdraws from the society or the society is wound up, the tenancy rights of such tenants shall stand restored.

CHAPTER VII

LIQUIDATION AND WINDING UP

27. **Winding up.**—(1) If one third of the total number of members of a society apply to the Chairman of the District Co-operative Federation for winding up the society and the Chairman, after such enquiry as he may deem fit, is of the opinion that the society ought to be wound up, he may issue an order directing it to be wound up, and when necessary may appoint a liquidator for the purpose from amongst the members of the District Co-operative Federation and fix his remuneration.

(2) A copy of an order passed under sub-section (1) shall be sent to the Registrar.

28. **Winding up if membership is reduced.**—(1) Where the membership of a society is reduced to less than twenty members or the area of the co-operative farm is reduced to less than the minimum area specified in clause (b) of sub-section (1) of section 4, the Chairman of the District Co-operative Federation may, after allowing the society a period of sixty days to make up the deficiency by order in writing direct that the society be wound up, and when necessary, may appoint a liquidator for the purpose from amongst the members of the District Co-operative Federation and fix his remuneration.

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PART I

Acts, Ordinances, President's Orders and Regulations

NATIONAL ASSEMBLY SECRETARIAT

Islamabad, the 21st August, 1976

The following Act of Parliament received the assent of the President on the 17th August, 1976, and is hereby published for general information :—

ACT No. LIII OF 1976

An Act further to amend the West Pakistan Press and Publications Ordinance, 1963.

WHEREAS it is expedient further to amend the West Pakistan Press and Publications Ordinance, 1963 (W. P. Ordinance No. XXX of 1963), for the purposes hereinafter appearing ;

It is hereby enacted as follows :—

1. **Short title, extent and commencement.**—(1) This Act may be called the West Pakistan Press and Publications (Amendment) Act, 1976.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. **Amendment of section 12, West Pakistan Ordinance No. XXX of 1963.**—In the West Pakistan Press and Publications Ordinance, 1963 (W. P. Ordinance No. XXX of 1963), hereinafter referred to as the Ordinance, in section 12,—

(a) in sub-section (3), for the words and commas " defence or external affairs, or security of Pakistan, or public order, or public safety in the Province of West Pakistan, or to use the newspaper in respect

Price : Ps. 9

of which the declaration is made for the purposes of incitement to the commission of any cognizable offence involving violence or for deflamation " the words and commas " glory of Islam, or the integrity, security or defence of Pakistan or any part thereof, friendly relations with foreign States, public order, decency or morality, or to use the newspaper in respect of which the declaration is made for the purpose of commission of, or incitement to, an offence " shall be substituted ; and

(b) in sub-section (5), after the brackets, and figure " (2) ", the words, brackets and figure " or sub-section (3) " shall be inserted.

3. **Amendment of section 24, West Pakistan Ordinance No. XXX of 1963.**—In the Ordinance, in section 24, in sub-section (1), clause (k) shall be omitted.

M. A. HAQ,
Secretary.

CORRIGENDUM

[*to the* Gazette of Pakistan, Extraordinary, *Part I, dated the 6th August, 1976, containing Ordinance No. XXX of 1976*].

Page 447 : In line 9 from the bottom, *for* " to " *read* " to take ".

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(2) A copy of an order passed under sub-section (1) shall be sent to the Registrar.

29. **Effect of winding up.**—When a society is wound up—

(a) the standing crop of the co-operative farm shall be harvested and the produce income distributed in accordance with the provisions of this Act;

(b) the land comprising the co-operative farm shall revert to the members together with improvements, if any, made by the society and subject to the encumbrances, if any, created thereon by the society and subject to payment by each member of the cost of such improvements on his land as at the time of the winding up;

(c) after all the liabilities of the society have been met, the assets of the society, including the Reserve Fund, shall, subject to clause (d), be divided amongst the members in proportion to the value of the land pooled by them; and

(d) the hospitals, schools and other social institutions, if any, established by the society shall stand transferred to, and vest in, the District Co-operative Federation and shall be managed by it in accordance with schemes prepared by it and approved by the Provincial Co-operative Federation.

30. **Power of Chairman of District Co-operative Federation to assess damage.**—Where, in the course of the winding up of a society, it appears that any person who has taken part in the organisation or management of the society or any past or present member or office-bearer of a committee or officer of the society has misapplied or retained or become liable or accountable for any money or property of the society or has been guilty of breach of trust in relation to the society, the Chairman of the District Co-operative Federation may, of his own motion or on the application of a liquidator or any other interested person, hold an inquiry into the conduct of such person, member or officer and make an order requiring him to repay or restore the money or property or any part thereof respectively with interest at such rate as the Chairman thinks just, or to contribute such sum to the assets of the society by way of compensation in regard to the misapplication, retainer or breach of trust as the Chairman thinks just.

31. **Bar of suit.**—Save as is otherwise provided in the Act, no civil court shall have jurisdiction in respect of any matter arising out of any proceedings under this Act or connected with the winding up of a society nor shall any suit or other legal proceedings lie or be proceeded with against the society, except by the leave of the Chairman of the Provincial Co-operative Council and subject to such terms as he may impose.

32. **Arbitration.**—(1) If any dispute with regard to the business of a society other than a dispute regarding disciplinary action taken by the society or its committee against a paid servant of the society, arises—

(a) between the members or past members of a society, or persons claiming through a member or past member; or

(b) between the members or past members or persons so claiming and any past or present office-bearer; or

(c) between the society or its committee and any past or present member of the society ; or

(d) between the society or its committee and any past or present office-bearer of the society ;

it shall be reported to the Chairman of the District Co-operative Federation, who shall refer it for decision to not more than three arbitrators appointed by him from amongst the members of the District Co-operative Federation.

(2) Any party aggrieved by the award of the arbitrators under sub-section (1) may, within one month of the date of the communication of the order, prefer an appeal to the District Judge.

(3) The award of arbitrators, or an award passed in appeal by the District Judge under sub-section (2), shall, subject to the provisions of section 54, be final and shall not be liable to be called in question in any court.

33. **Attachment before award.**—Where a dispute has been referred to arbitration under section 32 and the arbitrators are satisfied on inquiry or otherwise that a party to such arbitration is, with intent to delay or obstruct the execution of any award that may be made, about to dispose off the whole or any part of his property, the arbitrators may direct the conditional attachment of the said property and such attachment shall have the same effect as if made by a competent civil court.

34. **Recoveries of dues.**—Every award made under section 32, every order passed in appeal under that section, and every order passed under section 5 shall be deemed to be a decree of a civil court and shall be executed in the same manner as a decree of such court.

CHAPTER VIII

FEDERATION OF THE SOCIETIES

35. **District Co-operative Federation.**—(1) In each district in which not less than two societies are in existence, there shall be formed a District Co-operative Federation of Co-operative Farming Societies which shall consist of one representative from each society in the district.

(2) Each District Co-operative Federation shall elect at its general meeting its office-bearers, including the Chairman, two representatives for the District Co-operative Council and one representative for the Provincial Co-operative Federation, provided that till such time as the requisite number of representatives mentioned in sub-section (1) are available, two or more representatives shall carry out the responsibilities of all the required office-bearers.

(3) The office-bearers, including the Chairman, and representatives shall hold office for a term of two years.

(4) A representative for a District Co-operative Council or a Provincial Co-operative Federation may, by writing under his hand addressed to the Chairman of the District Co-operative Council or, as the case may be, the Provincial Co-operative Federation, resign his office.

(5) The District Co-operative Federation may make bye-laws relating to its meeting and procedure and the performance of its functions.

36. **Fund and functions of District Co-operative Federation.**—(1) A District Co-operative Federation shall have a fund to which shall be credited the contributions received by it from the societies and out of which shall be defrayed the contributions it shall make to the Provincial Co-operative Federation and the office and other expenses of the District Co-operative Federation.

(2) A District Co-operative Federation shall deal with matters of mutual interest to the societies in the district and make recommendations to the District Co-operative Council on matters with which the Provincial Government is concerned.

37. **Provincial Co-operative Federation.**—(1) There shall be formed in each Province a Provincial Federation of Co-operative Farming Societies which shall consist of one representative from each of the District Co-operative Federations within the Province.

(2) Each Provincial Co-operative Federation shall elect in its general meeting its office-bearers, including the Chairman, five representatives for the Provincial Co-operative Council and one representative for the National Co-operative Council.

(3) A representative shall hold office for a term of one year.

(4) A representative for a Provincial Co-operative Council or the National Co-operative Council, may, by writing under his hand addressed to the Chairman of the Provincial Co-operative Council or, as the case may be, the National Co-operative Council, resign his office.

(5) The Provincial Co-operative Federation may make bye-laws relating to its meeting and procedure and the performance of its functions.

38. **Fund and functions of the Provincial Co-operative Federation.**—(1) A Provincial Co-operative Federation shall have a fund to which shall be credited the contributions received by it from the District Co-operative Federations and out of which shall be defrayed its office and other expenses.

(2) The functions of the Provincial Co-operative Federation shall be to deal with matters of mutual interest to the societies in the Province and make recommendations to the Co-operative Council on matters with which the Provincial Government is concerned.

39. **District Co-operative Council.**—(1) There shall be formed in each district a District Co-operative Council which shall consist of the heads of the nation-building departments in the district and two representatives of the District Co-operative Federation. Provided that, pending the availability of the representatives of the District Co-operative Federation, the District Co-operative Council may consist of only the heads of the said departments.

(2) The elected Chairman of the District Council established under the Provincial Law relating to local government shall be the *ex-officio* Chairman of the District Co-operative Council.

(3) Pending the election of the Chairman of the District Co-operative Council referred to in sub-section (2) the Chairman shall be appointed by the Provincial Government from amongst the members of the council.

(4) The District Co-operative Council may make bye-laws relating to its meetings and procedure and the performance of its functions.

40. **Functions of the District Co-operative Council.**—(1) A District Co-operative Council shall, of its own motion or on the recommendation of the District Co-operative Federation, co-ordinate the services of the different nation-building departments and the District Co-operative Federation and extend all possible assistance to the societies within the district.

(2) A District Co-operative Council shall review the decisions taken by it from time to time, the progress of co-operative farming movement within the district and suggest measures for its improvement and future development.

(3) The Provincial Government shall make available to a District Co-operative Council such funds as the Provincial Government may consider adequate for enabling the Council to perform its functions.

41. **Provincial Co-operative Council.**—(1) There shall be formed in each Province a Provincial Co-operative Council which shall consist of all the Secretaries to the Provincial Government in the nation-building departments and five representatives of the Provincial Co-operative Federation.

(2) The Provincial Minister dealing with the matters relating to co-operation shall be the *ex-officio* Chairman of the Provincial Co-operative Council and the Secretary of the department dealing with such matters shall be the *ex-officio* Secretary of the Council.

(3) The Provincial Co-operative Council may make bye-laws relating to its meetings and procedure and the performance of its functions.

42. **Functions of the Provincial Co-operative Council.**—(1) The Provincial Co-operative Council shall co-ordinate the activities of all the District Co-operative Councils within the Province, ensure uniformity of policy throughout the Province and perform at the Provincial level the functions assigned by section 40 to the District Co-operative Council at the district level.

(2) The Provincial Government will make available to the Provincial Co-operative Council such funds as the Provincial Government may consider adequate for enabling the Council to perform its functions.

43. **National Co-operative Council.**—(1) As soon as may be after the commencement of this Act the Federal Government shall constitute the National Co-operative Council which shall consist of the following members, namely :—

(a) the Federal Minister-in-charge of the Ministry dealing with matters relating to co-operatives, who shall be the Chairman of the Council ;

(b) the Provincial Ministers dealing with matters relating to Co-operation in each Province ;

(c) one representative of each of the Provincial Co-operative Federation ; and

(d) such other members as the Federal Government may appoint :

Provided that, for the first constitution of the National Co-operative Council, the members referred to in clause (c) shall be nominated by the Chairman of the Council.

(2) The National Council may make bye-laws relating to its meetings and procedure and the performance of its functions.

44. Functions of the National Co-operative Council.—(1) The National Co-operative Council shall co-ordinate the activities of the Provincial Co-operative Councils and ensure uniformity of policy in all the Provinces by laying down policy guidelines for the working of the Provincial Co-operative Councils and the District Co-operative Councils.

(2) The National Co-operative Council shall review its decisions taken from time to time and the progress of the co-operative movement in all the Provinces and suggest measures for its over-all future development.

(3) The National Co-operative Council shall also maintain liaison between the Federal and Provincial nation-building departments and arrange for the holding of national and international seminars on various aspects of co-operative farming.

(4) The Federal Government shall make available to the National Co-operative Council such funds as the Federal Government may consider adequate for enabling the Council to perform its functions.

CHAPTER IX

INSPECTION OF AFFAIRS

45. Inquiry by Chairman District Co-operative Federation.—(1) The Chairman of the District Co-operative Federation may, of his own motion, by himself or by a person duly authorised by him in writing in this behalf hold an inquiry into the constitution, working and financial condition of a society.

(2) The Chairman of the District Co-operative Federation shall hold such an inquiry as is contemplated in sub-section (1) of this section—

(a) on the application of a majority of the committee of the society, or

(b) on the application of one-third of the members of the society.

(3) All officers and members of the society whose affairs are investigated shall furnish such information in their possession in regard to the affairs of the society as the person holding the inquiry may require.

(4) The result of any inquiry under this section shall be communicated to the society whose affairs have been investigated.

46. Inspection of books of indebted society.—(1) The Chairman of the District Co-operative Federation may, on the application of a creditor of a society, inspect or direct some person authorized by him by order in writing in this behalf to inspect the books of the society :

Provided that the applicant—

(a) satisfies the Chairman that the debt is a sum then due, and that he has demanded payment thereof and has not received satisfaction within a reasonable time ; and

(b) deposits with the Chairman such sum as security for the costs of the proposed inspection as the Chairman may require.

(2) The Chairman shall communicate the result of any such inspection to the creditor.

47. Power of Chairman, District Co-operative Federation to exercise powers under section 30 in the course of an inquiry or inspection.—Where, in the course of any inquiry under section 45 or an inspection under section 46, it appears to the Chairman of the District Co-operative Federation that there exists any such ground as is specified in section 30, he may of his own motion or on the application of the person authorized by him under section 45 or section 46, exercise the powers specified in section 30.

48. **Costs of inquiry.**—Where an inquiry is held under section 45 or an inspection is made under section 46, the Chairman of the District Co-operative Federation may apportion the costs, or such part of the costs, as he may consider proper between the society, the members of creditor demanding the inquiry or inspection, the officers or former officers, and the members or past members of the society :

Provided that—

(a) no order of apportionment of the costs shall be made under this section unless the society or person liable to pay the costs thereunder has or have been heard or has or have had a reasonable opportunity of being heard ; and

(b) the Chairman shall record the grounds on which the costs were apportioned.

49. **Recovery of costs.**—Any sum awarded by way of costs under section 48 may be recovered, on application by the Chairman of the District Co-operative Federation to a Magistrate having jurisdiction in the place where the person from whom the money is claimable actually and voluntarily resides, or carries on business, by the distress and sale of any movable property within the limits of the jurisdiction of such Magistrate belonging to such person, and such Magistrate shall proceed to recover the same in the same manner as if it were a fine imposed by himself.

CHAPTER X

MISCELLANEOUS

50. **Amalgamation or transfer of societies.**—(1) Any two or more societies may, with the approval of the District Co-operative Federation, by resolution passed by a three-fourths majority of the members present at a special general meeting of each such society held for the purpose, amalgamate as a single society :

Provided that each member has had fifteen clear days' notice of the resolution and the date of the meeting.

(2) An amalgamation referred to in sub-section (1) may be effected without a dissolution, or a division of the funds, of the amalgamating societies and the resolution of the societies concerned shall on such amalgamation, be a sufficient conveyance to vest the assets and liabilities of the amalgamating societies in the amalgamated society.

(3) Any society may, by a resolution passed in accordance with the procedure laid down in sub-section (1) transfer its assets and liabilities to any other society which is prepared to accept them :

Provided that, when any such amalgamation or transfer of assets and liabilities involves the transfer of its liabilities by any society to any other society, it shall not be made without giving three months' notice to the creditors of both or such societies :

Provided further that if a creditor of any of the societies concerned objects to such amalgamation or transfer of assets and liabilities and gives written notice to that effect to the society or societies concerned one month before the date fixed for the amalgamation or transfer, the amalgamation or transfer shall not be made until the dues of such creditor have been satisfied.

51. **Powers to exempt from stamp duty or registration fee, etc.**—The Provincial Government may, by notification in the official Gazette, reduce or remit—

(a) the stamp-duty with which, under any law for the time being in force, any instruments executed by or on behalf of a society or by an officer or member and relating to the business of the society, or security bonds executed by or on behalf of officers or servants of a society, or awards of the arbitrators under this Act, are chargeable; and

(b) any fee payable under the law relating to the registration of documents or to court-fees for the time being in force.

52. **Exemption from Income-tax.**—The earnings of a society and the dividend paid by it to its members shall be exempt from income-tax.

53. **Notice necessary in suits.**—No suit shall be instituted against a society or any of the office-bearers in respect of any act relating to the buiness of the society until the expiration of three months next, after notice in writing has been given to the Chairman of the District Co-operative Federation.

54. **Power of revision.**—The Chairman of the Provincial Co-operative Council may, of his own motion or otherwise call for the record of any case or proceedings under this Act for the purpose of satisfying himself as to the correctness, legality or propriety of any decision or order passed by any authority, and may pass such order in relation thereto as he may think fit:

Provided that no order shall be passed under this section revising or modifying an order affecting any person unless such person has been afforded an opportunity of being heard.

55. **Transitional provisions.**—(1) Till such time as the District Co-operative Federation is formed in a District and its Chairman has been elected,—

(a) the powers and functions of the District Co-operative Federation under this Act and the rules shall be exercised and performed by the District Co-operative Council; and

(b) the powers and functions of the Chairman under this Act and the rules shall be exercised and performed by the Chairman of the District Co-operative Council.

(2) Till such time as the Provincial Co-operative Federation is formed in a Province, its powers and functions under this Act and the rules shall be exercised and performed by the Provincial Co-operative Council.

56. **Power to make rules.**—The Provincial Government may make rules for carrying out the purposes of this Act.

57. **Repeal.**—The Cooperative Farming Ordinance, 1976 (XXII of 1976), is hereby repealed.

M. A. HAQ,
Secretary.

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PART I

Acts, Ordinances, President's Orders and Regulations

NATIONAL ASSEMBLY SECRETARIAT

Islamabad, the 31st August, 1976

The following Acts of Parliament received the assent of the President on the 26th August, 1976, and are hereby published for general information :—

ACT No. LIV OF 1976

An Act to provide for the establishment of a Pakistan Shipping Corporation

WHEREAS it is expedient to provide for the establishment of a Pakistan Shipping Corporation, and for matters connected therewith or incidental thereto ;

It is hereby enacted as follows :—

1. **Short title, extent and commencement.**—(1) This Act may be called the Pakistan Shipping Corporation Act, 1976.

(2) It extends to the whole of Pakistan and also applies to the assets, liabilities, shares and proprietary interests, wherever situated, of managed establishments.

(3) It shall come into force at once.

2. **Definitions.**—In this Act, unless there is anything repugnant in the subject or context—

(a) " Act " means the Pakistan Maritime Shipping (Regulation and Control) Act, 1974 (XVIII of 1974) ;

(b) " Board " means the Board of Directors constituted under section 8 ;

(c) " Chairman " means the Chairman of the Board ;

(d) " company " means a company formed and registered under the Companies Act, 1913 (VII of 1913) ;

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[3088 Ex. Gaz.]

(e) "Corporation" means the Pakistan Shipping Corporation established under section 3;

(f) "establishment" means a company, corporation, firm, concern, institution or enterprise and includes any related office, shop, factory, godown, yard, stocks and stores, wherever they may be;

(g) "managed establishment" means an establishment in respect of which a managing director is or has at any time been appointed pursuant to section 6 of the Act, but does not include the National Shipping Corporation established under the National Shipping Corporation Ordinance, 1963 (IV of 1963);

(h) "person" includes a body corporate, an individual, a Hindu undivided family, a firm, an association of persons, a body of individuals, the Federal Government, the Government of a Province and a local authority;

(i) "regulations" means regulations made under this Act;

(j) "rules" means rules made under this Act;

(k) "Vice-Chairman" means the Vice-Chairman of the Board.

(l) words and expressions used but not defined in this Act shall have the same meaning as in the Companies Act, 1913 (VII of 1913).

3. **Establishment and incorporation.**—(1) As soon as may be after the commencement of this Act, the Federal Government shall establish a corporation to be called the Pakistan Shipping Corporation.

(2) The Corporation shall be a body corporate having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and shall by the said name sue and be sued.

4. **Head Office.**—The Corporation shall establish its head office in Karachi and may establish such offices within Pakistan and abroad as the Board thinks fit.

5. **Share Capital.**—(1) The authorised share capital of the Corporation shall in the first instance be twenty crores of rupees divided into two crore shares of ten rupees each.

(2) The Federal Government shall at all times hold a majority in value of the shares issued by the Corporation.

(3) The subscribed capital of the Corporation shall in the first instance comprise shares allotted against entitlements resulting in accordance with section 30 and any further allotments that may be necessary to complete the minimum shareholding of the Federal Government required by sub-section (2).

(4) The Corporation may increase its capital whenever it thinks fit with the previous sanction of the Federal Government and the Federal Government may impose such conditions as it considers necessary when sanctioning any increase.

(5) All transfers of the shares of the Corporation shall be subject to the provisions of this Act and the rules.

6. **Functions and powers of the Corporation.**—(1) It shall be the function of the Corporation to undertake the management of the managed establishments the management of which is transferred to the Corporation by the Federal

Government under the Act, and to assume the ownership of the shares or proprietary interests of such managed establishments which have been acquired by the Federal Government under section 5 of the Act and are transferred to and vested in the Corporation under this Act.

(2) The Corporation shall provide and develop safe and efficient shipping services and have power to engage in all forms of activities connected with or ancillary, incidental or conducive to shipping.

(3) Without prejudice to the generality of the provisions of sub-section (2), the Corporation shall in particular have power—

(a) to establish and maintain lines or other services of ships or other vessels between ports, whether in Pakistan or abroad, and on any national or international routes, and generally to carry on the business of shipowners, and to enter into contracts for the carriage of mails, passengers, goods, provisions, live and dead stock, commodities, articles, chattels, merchandise and property of every kind by any means, and either by its own vessels and other forms of transportation, or by or over the vessels and modes of transportation of others ;

(b) to purchase, take in exchange, charter, hire, build, construct or otherwise acquire, and to own, work, manage, and trade with ships, other vessels and other vehicles, or any shares or interests therein, and all necessary and convenient equipment, engines, tackle, gear, furniture and stores, and to maintain, repair, fit out, refit, improve, insure, alter, sell, exchange, or let out on hire or charter or otherwise deal with and dispose of, any of the ships, other vessels and other vehicles, any shares or interest therein, or any of the engines, tackle, gear, furniture, equipment, and stores of, or under the management or control of, the Corporation ;

(c) to construct, improve, maintain, develop, work, manage, carry out, or control harbours, wharves, terminals, graving and other docks and other conveniences for the building or repairing or docking of ships and other vessels, workshops, mills, buildings, warehouses, sheds, roads, ways, tramways, railways, branches or sidings, bridges, reservoirs, watercourses and other works and conveniences ; and to contribute to, subsidise, or otherwise assist or take part in the constructions, improvement, maintenance, development, working, management, carrying out, or control thereof ;

(d) with the previous approval of the Federal Government, to promote and form, or aid and assist in promoting and forming, or to otherwise associate with, companies and other bodies corporate, syndicates, partnerships, joint ventures and other organisations in or outside Pakistan for the purpose of advancing directly or indirectly the objects of the Corporation or for any other purpose which the Corporation may find expedient in the performance of its functions ;

(e) to establish, institute or make other arrangements for the instruction and training of persons engaged or likely to be engaged in any activities connected with or ancillary to shipping ;

(f) to acquire, hold or dispose of any property, whether movable or immovable ;

(g) to do all other things connected with or ancillary to any of the matters referred to in clauses (a) to (f) ; and

(h) to perform and exercise all or any of the functions and powers of the Corporation under this Act by itself or through one or more companies owned or controlled directly or indirectly by the Corporation, and either exclusively through such companies or partly by itself, or in any other manner that the Corporation may deem expedient.

(4) In the performance and exercise of its functions and powers the Corporation shall have careful regard to sound business principles.

7. **Administration of the affairs of the Corporation.**—(1) The general direction and the administration of the Corporation and its affairs shall vest in the Board which may exercise all powers and do all acts which may be exercised or done by the corporation.

(2) In the performance, of its functions, the Corporation shall be guided on questions of policy by directives, if any, given to it by the Federal Government which shall be the sole judge as to whether a question is a question of policy.

8. **The Board of Directors.**—(1) The Board shall consist of seven Directors to be appointed by the Federal Government, of whom three shall be designated Shareholder's Directors.

(2) If a Director is out of Pakistan or is about to go out of Pakistan, the Federal Government may appoint any person to be an Alternate Director during his absence from Pakistan, and such Alternate Director shall be entitled to notice of meetings of the Board and any committees of the Board of which the Director may be a member and to attend and vote thereat as if he were a Director.

(3) The Shareholders' Directors and the Alternate Directors appointed for them shall hold shares in the capital of the Corporation of such nominal value as may be prescribed by rules and shall acquire such share qualification within two months from the date of their appointment :

Provided that no share qualification shall be required for the Shareholders' Directors and the Alternate Directors appointed for them until the expiry of two months from the date the shares of the Corporation are quoted on a stock exchange registered under the Securities and Exchange Ordinance, 1969 (XVII of 1969).

(4) The Directors and the Alternate Directors, other than the Shareholders' Directors and the Alternate Directors appointed for them, shall not require any share qualification.

(5) Every Director and Alternate Director, other than the Chairman and the Vice-Chairman, shall—

(a) perform such special duties as the Board may, by regulation, assign to him ; and

(b) receive such remuneration, fees and allowances, and enjoy such privileges, as the Federal Government may determine.

9. **Terms of office of Directors and Alternate Directors.**—(1) A Director shall hold office for a term of three years :

Provided that the Federal Government may, on resignation by a Director or otherwise, terminate his appointment before the expiry of his term.

(2) If a vacancy shall occur in the office of a Director, the Federal Government may fill such vacancy by appointing another person qualified to hold that office.

(3) A Director completing his term of appointment may be appointed for a further term in accordance with, and subject to the provisions of, this Act.

(4) An Alternate Director shall hold office for the period for which the Director for whom he is appointed such Alternate Director remains absent from Pakistan :

Provided that the Federal Government may, on resignation by an Alternate Director or otherwise, terminate his appointment before the expiry of the said period.

(5) The appointment of every Director and Alternate Director and the fact of his ceasing to hold office shall be notified in the official Gazette.

(6) No act or proceeding of the Board shall be invalid merely on the ground of the existence of any vacancy in, or any defect in the constitution of, the Board.

10. **Chairman.**—(1) The Federal Government shall appoint one of the Director to be the Chairman of the Board.

(2) The Chairman shall hold office for a term of three years unless he sooner ceases to be a Director :

Provided that the Federal Government may, on resignation by the Chairman or otherwise, terminate his appointment before the expiry of his term.

(3) If a vacancy shall occur in the office of Chairman, another Director may be appointed to fill such vacancy.

(4) The appointment of the Chairman and the fact of his ceasing to hold office shall be notified in the official Gazette.

(5) A Chairman completing his term of appointment may be appointed for a further term in accordance with, and subject to the provisions of, this section.

(6) The Chairman shall receive such remuneration, fees and allowances, and enjoy such privileges, as the Federal Government may determine.

(7) The Chairman shall be the Chief Executive of the Corporation and shall perform such functions as are assigned to him by this Act or as may be delegated or assigned to him by the Board.

11. **Duties of Chairman.**—The Chairman shall—

(a) direct and control, on behalf of the Board, the business and affairs of the Corporation as its Chief Executive, subject to the rules and regulations of the Corporation and such orders and directives on questions of policy as the Federal Government may from time to time give in writing ;

(b) preside at every meeting of the Board and every general meeting of the shareholders of the Corporation, unless prevented by sickness or other reasonable cause ; and

(c) be responsible for the orderly conduct of the business of the Board.

12. **Vice-Chairman.**—(1) The Federal Government shall appoint one of the Directors to be the Vice-Chairman of the Board.

(2) The Vice-Chairman shall hold office for a term of three years unless he sooner ceases to be a Director:

Provided that the Federal Government may, on resignation by the Vice-Chairman or otherwise, terminate his appointment before the expiry of his term.

(3) If a vacancy shall occur in the office of Vice-Chairman, another Director may be appointed to fill such vacancy.

(4) The appointment of the Vice-Chairman and the fact of his ceasing to hold office shall be notified in the official Gazette.

(5) A Vice-Chairman completing his term of appointment may be appointed for a further term in accordance with, and subject to the provisions of, this section.

(6) The Vice-Chairman shall receive such remuneration, fees and allowances, and enjoy such privileges, as the Federal Government may determine.

(7) The Vice-Chairman shall discharge, perform and exercise such duties, functions and powers as are assigned to him by this Act or as may be assigned to him by the Chairman or as may be delegated or assigned to him by the Board and, during the absence of the Chairman from Pakistan or from a meeting of the Board or a general meeting of the shareholders of the Corporation, the Vice-Chairman shall also discharge, perform and exercise all the duties, functions and powers which are assigned to the Chairman by or under this Act.

13. **Disqualification of Directors.**—(1) No person shall be appointed or shall continue to be a Director or Alternate Director who—

(a) is or at any time has been convicted of an offence involving moral turpitude; or

(b) is or at any time has been adjudicated insolvent; or

(c) is found to be a lunatic or becomes of unsound mind; or

(d) is a minor.

(2) A Shareholders' Director and an Alternate Director appointed for a Shareholders' Director shall cease to hold office as such if he fails to obtain within the time specified in sub-section (3) of section 8, or if at any time thereafter ceases to hold, the prescribed share qualification, if any, applicable to him.

(3) A Director or an Alternate Director shall cease to hold office if he absents himself from three consecutive meetings of the Board without the leave of the Board:

Provided that a Director shall be deemed to have received such leave for his absence from meetings of the Board during any period that the appointment of an Alternate Director for him is effective.

14. **Appointment of officers, etc.**—The Corporation may appoint such advisers and consultants and such officers and other employees as it considers necessary for the efficient performance and exercise of its functions and powers on such terms and conditions as it may deem fit.

15. **Delegation of powers.**—The Board may, for the purpose of ensuring efficient functioning of the Corporation and facilitating transaction of its daily business, delegate to the Chairman, Vice-Chairman, any Director or Alternate Director, any officer of the Corporation, or any other person, subject to such conditions and limitations, if any, as may be specified by the Board, such of its powers and functions under this Act as it may deem necessary.

16. **Meetings of the Board.**—(1) Meetings of the Board may be held at such times and at such places as the Chairman may from time to time decide, but not less than one meeting of the Board shall be held in every calendar quarter, and a meeting of the Board shall be convened if the Chairman receives a request therefor in writing from two or more of the Directors or Alternate Directors.

(2) Such notice shall be given of meetings of the Board as may be prescribed by regulations.

(3) To constitute a quorum at a meeting of the Board, not less than four members, being Directors or Alternate Directors, shall be present.

(4) Every meeting of the Board shall be presided at by the Chairman, but in the absence of the Chairman the Vice-Chairman shall preside at the meeting, and in the absence of both the Chairman and the Vice-Chairman, the Directors and Alternate Directors present shall choose one from among themselves to preside at the meetings.

(5) Each Director and Alternate Director shall have one vote and, in the event of an equality of votes, the Chairman or the Vice-Chairman presiding at the meeting shall have a second or casting vote, but any other Director or Alternate Director presiding at a meeting shall not have a second or casting vote in the event of an equality of votes.

17. **Committees of the Board.**—(1) The Board may from time to time delegate any of its powers to committees consisting of such Directors as the Board may think fit, and may from time to time revoke such delegation, and any committee so formed shall, in the exercise of the powers so delegated, conform to the regulations, if any.

(2) The minutes of every meeting of a committee shall be laid before the Board at its next meeting following such meeting.

18. **Bank Accounts.**—The Corporation may open accounts in any scheduled banks in Pakistan or, with the prior approval of the Federal Government, in any banks outside Pakistan.

Explanation.—In this section, "scheduled bank" has the same meaning as in the State Bank of Pakistan Act, 1956 (XXXIII of 1956).

19. **Investment of funds.**—The Corporation may invest its funds in any securities of the Federal Government or a Provincial Government and may make such other investments as may be approved by the Board.

20. **Borrowing powers.**—The Corporation may borrow in Pakistan currency on such terms and conditions as may be approved by the Board and in foreign currency on such terms and conditions as may be approved by the Federal Government.

21. **Accounts.**—(1) The year of account of the Corporation shall be the year commencing the first day of July and ending the following thirtieth day of June.

(2) The Corporation shall maintain its accounts in such manner as may be required for a company under the Companies Act, 1913 (VII of 1913) and the Securities and Exchange Ordinance, 1969 (XVII of 1969).

22. **Audit.**—(1) The accounts of the Corporation shall be audited by not more than two auditors who are chartered accountants within the meaning of the Chartered Accountants Ordinance, 1961 (X of 1961).

(2) The first auditors shall be appointed by the Board for one year and thereafter the auditors shall be appointed every year by the shareholders in general meeting.

(3) An auditor of the Corporation shall perform such duties and exercise such powers as are provided for an auditor of a company under the Companies Act, 1913 (VII of 1913) and the Securities and Exchange Ordinance, 1969 (XVII of 1969).

(4) The report of the auditors of the Corporation shall be in such form as may be provided for a company under the Companies Act, 1913 (VII of 1913) and the Securities and Exchange Ordinance, 1969 (XVII of 1969).

23. **Report of the Board.**—(1) When the annual accounts of the Corporation have been audited, the Board shall make out a report with respect to the year of account on the operations and state of affairs of the Corporation, the amount, if any, which it recommends should be paid by way of dividend and the amount, if any, which it proposes to carry to the reserves.

(2) The Board shall submit to the Federal Government a copy of the audited annual account of the Corporation and the report of the auditors together with the report of the Board, and shall also send a copy of such accounts and reports to every shareholder of the Corporation.

24. **Dividends.**—(1) The shareholders of the Corporation in general meeting may declare dividends, but no dividends shall exceed the amount recommended by the Board.

(2) The Board may from time to time pay to the shareholders of the Corporation such interim dividends as appear to the Board to be justified by the profits of the Corporation.

(3) No dividend shall be paid otherwise than out of the profits of the Corporation for the year of account or any other undistributed profits.

25. **General meetings.**—(1) General meetings of the shareholders of the Corporation shall be held at Karachi.

(2) The annual general meeting of the shareholders shall be held within six months from the date on which the annual accounts of the Corporation are closed.

(3) Any other general meeting of the shareholders may be convened by the Board at any time.

(4) The shareholders present at the annual general meeting shall be entitled to discuss and adopt or make recommendations to the Board with regard to the annual accounts, the report of the auditors thereon, and the annual report of the Board on the working of the Corporation.

(5) The proceedings of the general meetings of the shareholders shall be regulated in such manner as may be prescribed by rules.

26. **Declaration of fidelity and secrecy.**—The Chairman, the Vice-Chairman and every Director and Alternate Director, auditor, officer or servant of the Corporation shall, before entering upon his duties, make a declaration of fidelity and secrecy in the form set out in the First Schedule.

27. **Indemnity of members of the Board.**—(1) The Chairman, the Vice-Chairman, and every other Director and Alternate Director shall be indemnified by the Corporation against all losses and expenses incurred by him in the discharge of his duties, except such as are caused by his own wilful act or default.

(2) Neither the Chairman nor the Vice-Chairman nor any other Director or Alternate Director shall be personally responsible for the acts of any other of them or of any officer or servant of the Corporation for any loss or expense resulting to the Corporation by reason of the insufficiency or deficiency in value of or title to any property or security acquired or taken on behalf of the Corporation, or by the wrongful act of any person under a liability to the Corporation, or by anything done by him in good faith in the execution of the duties of his office.

28. **Transfer to the Corporation of the management of managed establishments.**—(1) As soon as may be after the commencement of this Act, the Federal Government shall, in exercise of the power conferred on it by sub-section (3) of section 13 of the Act, by notification in the official Gazette, transfer to the Corporation the management of the managed establishments listed in the Second Schedule.

(2) Immediately upon the transfer to the Corporation of the management of the managed establishments listed in the Second Schedule, the Board of Management set up under section 7 of the Act shall cease to exercise or perform any powers or functions under the Act in relation to such managed establishments; and the said Board may then be wound up by order of the Federal Government in such manner as the Federal Government may direct.

29. **Transfer to the Corporation of the ownership of shares and proprietary interests in managed establishments.**—(1) When the management of a managed establishment listed in the Second Schedule has been transferred to the Corporation, the Federal Government may by notification in the official Gazette, transfer to and vest in the Corporation the shares of such managed establishment if it is a company or the proprietary interests in such managed establishment if it is not a company, and on such day as may be specified in the notification (hereinafter referred to as the appointed day) all the issued or subscribed shares of such managed establishment if it is a company, or the whole of the proprietary interests in such managed establishment if it is not a company, shall stand transferred to and vested in the Corporation; such managed establishment is hereinafter referred to as the acquired establishment.

(2) Where the acquired establishment is a company, every person who immediately preceding the appointed day held any shares of such company shall,

within ninety days of the appointed day, surrender to the Managing Director of the acquired establishment all the share certificates held by him pertaining to the shares transferred to and vested in the Corporation, and the Managing Director shall forthwith cancel such share certificates surrendered to him.

(3) Any share certificate required to be surrendered under sub-section (2) and not so surrendered shall on the expiry of ninety days from the appointed day stand cancelled.

(4) The Managing Director of the company referred to in sub-section (2) shall within one hundred and eighty days from the appointed day issue and deliver to the Corporation one or more new certificates as the Corporation may direct in lieu of the share certificates cancelled by him pursuant to sub-section (2) or which stand cancelled in accordance with sub-section (3) in respect of the shares transferred to and vested in the Corporation.

30. **Valuation of shares and proprietary interests in acquired establishments and entitlement of their owners to shares of the Corporation.**—(1) The Federal Government shall cause to be made and completed as expeditiously as may be, through such person, being a Chartered Accountant within the meaning of the Chartered Accountants Ordinance, 1961 (X of 1961), and in such manner as it thinks fit, a determination as on the appointed day separately of the net worth of the acquired establishment and the aggregate net worths of the Corporation and all the acquired establishments the undertakings of which have not been transferred to and vested in the Corporation under section 31 on or before the appointed day, and such determination shall be made on the basis of the principles set out in the Third Schedule, and the aforesaid net worth of the acquired establishment and the aggregate net worths shall, on being approved by the Federal Government, be notified in the official Gazette and shall be final.

(2) The Board shall allocate for the acquired establishment such number of fully paid-up shares of the Corporation as shall bear to the total number of shares allocated or to be allocated to all the acquired establishments, as nearly as may be, the same proportion that the net worth of the acquired establishment bears to the aggregate net worths of the Corporation and all the acquired establishments the undertakings of which have not been transferred to and vested in the Corporation under section 31.

(3) Where the acquired establishment is a company, every person who immediately before the appointed day owned any ordinary shares of such company shall be entitled to receive, in lieu of his ordinary shares in such company, such number of fully paid-up shares of the Corporation as shall bear to the number of shares of the Corporation allocated to such company in accordance with sub-section (2), as reduced by the number of shares of the Corporation comprising entitlements arising under sub-section (4) in respect of preference shares, if any, of such company, the same proportion as the amount paid up on his ordinary shares bears to the aggregate amount paid up on all the ordinary shares of such company.

(4) Every person who immediately before the appointed day owned any preference shares of the company referred to in sub-section (3) shall be entitled to receive, in lieu of his preference shares, fully paid-up shares of the Corporation of a face value equal to the face value of his preference shares in such company.

(5) Where the acquired establishment is not a company, every person who immediately before the appointed day owned the proprietary interests, or any part thereof, in the acquired establishment shall be entitled to receive, in lieu of his share of such interest, such number of fully paid-up shares of the Corporation as shall bear to the number of shares of the Corporation allocated to the acquired establishment in accordance with sub-section (2) the same proportion as the value of his share of such proprietary interests bears to the aggregate value of all the proprietary interests in the acquired establishment.

(6) An entitlement to shares of the Corporation arising under this section shall not be questioned on account of the allocation of shares to the acquired establishment not being according to the proportion specified in sub-section (2) or on account of such entitlement not being related to the net worth of the acquired establishment determined in accordance with sub-section (1).

(7) The Board shall issue certificates for entitlement to shares of the Corporation arising under this section within ninety days of the notification of net worth under sub-section (1), and, subject to sub-section (2), each such certificate shall entitle the person in whose favour it is issued to receive an allotment of shares of the Corporation in such number and value as are mentioned in the certificate and, pending such allotment, to be treated as if he were the registered holder of that number of shares on and from the appointed day for the purposes of any entitlement of shareholders to receive dividends declared by the Corporation or bonus shares issued upon any capitalisation of profits determined by the Corporation or to subscribe for further shares which the Corporation may decide to offer for subscription to its shareholders.

(8) The Board shall decide on the treatment of fractions of shares resulting from the determination of entitlements to shares of the Corporation in accordance with this section, and the Board may make such provisions by the issue of fractional certificates or by payment in cash or otherwise for the purpose as it may deem proper.

31. **Transfer to the Corporation of the undertaking of acquired establishment.**—(1) The Federal Government may, by notification in the official Gazette, transfer to and vest in the Corporation the undertaking of any acquired establishment, and on such date as may be specified in the notification the entire undertaking of the acquired establishment shall stand transferred to and vested in the Corporation.

(2) The undertaking so transferred and vested shall include all assets, rights, powers, authorities and privileges, and all property, movable and immovable, including lands, works, workshops, ships, vessels, vehicles, cash balances, reserve funds, investments and book debts, whether within or outside Pakistan, and all other rights and interests arising out of such property, as were immediately before the transfer to and vesting in the Corporation of the undertaking in the ownership, possession or power of the acquired establishment, and all books of account and documents relating thereto, and, subject to section 20 of the Act, all borrowings, liabilities and obligations of whatever kind then subsisting of the acquired establishment.

(3) Subject to section 20 of the Act, all contracts, agreements and other instruments of whatever nature subsisting or having effect immediately before the transfer to and vesting in the Corporation of the undertaking of an acquired establishment, to which such acquired establishment was a party or which were in favour of such acquired establishment, shall have full force and effect against

or in favour of the Corporation, and may be enforced or acted upon as fully and effectively as if, instead of the acquired establishment, the Corporation had been a party thereto or as if they had been entered into or issued in favour of the Corporation.

(4) If, on the date of the transfer to and vesting in the Corporation of the undertaking of an acquired establishment, any suit, appeal or other proceeding of whatever nature is pending by or against such acquired establishment, it shall not abate, be discontinued or be in any way prejudically affected by reason of such vesting or transfer or anything done under this Act but the suit, appeal or other proceeding may be continued, prosecuted and enforced by or against the Corporation.

32. **Certain existing arrangements to continue.**—All contracts and working arrangements made and all liabilities incurred by the Federal Government or the Board of Management constituted under section 7 of the Act before the vesting of any undertaking under section 31 in connection with or for the purposes of the Corporation or the acquired establishment the undertaking of which is transferred to and vested in the Corporation shall be deemed to have been made or incurred by the Corporation and have effect accordingly.

33. **Dissolution of acquired establishment.**—An acquired establishment which is a company shall, notwithstanding anything contained in the Companies Act, 1913 (VII of 1913), stand wound-up and dissolved as from the day on which its undertaking is transferred to and vested in the Corporation.

34. **Liquidation of Corporation.**—No provision of law relating to the winding up of companies or corporations shall apply to the Corporation and the Corporation shall not be wound-up save by order of the Federal Government and in such manner as the Federal Government may direct.

35. **Provisions relating to income-tax and super-tax.**—For purposes of the Income-tax Act, 1922 (XI of 1922), the Corporation shall be deemed to be a company within the meaning of that Act, and shall be liable to income-tax and super-tax accordingly on its income, profits and gains.

36. **Power to make rules.**—The Board may, subject to the approval of the Federal Government, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

37. **Power to make regulations.**—(1) The Board may make regulations to provide for all matters which are not required to be provided for by rules and provision for which is necessary or expedient for carrying out the purposes of this Act.

(2) Where any provision of the regulations is inconsistent with any provision of the rules, the provision of the rules shall prevail.

38. **Removal of difficulties.**—If any difficulty arises in giving effect to any provision of this Act, the Federal Government may make such order not inconsistent with the provisions of this Act as may appear to it to be necessary for the purpose of removing the difficulty. ".

THE FIRST SCHEDULE

(*See* section 26)

DECLARATION OF FIDELITY AND SECRECY

I, ... hereby declare that I will faithfully, truly and to the best of by judgement, skill and ability, execute and perform the duties required of me as Chairman, Vice-Chairman, a Director, an Alternate Director, officer, employee or auditor (as the case may be) of the Pakistan Shipping Corporation, and which properly relate to any office or position in the said Corporation held by me.

I further declare that I will not communicate or allow to be communicated to any person not legally entitled thereto any information relating to the affairs of the Corporation nor will I allow any such person to inspect or have access to any books or documents belonging to or in the possession of the Corporation and relating to the business of the Corporation.

Signature................

Signed before me.

....

Date............

THE SECOND SCHEDULE

(*See* section 28)

MANAGED ESTABLISHMENT MANAGEMENT OF WHICH SHALL BE TRANSFERRED TO THE CORPORATION

Public Limited Companies :—

(1) Pan Islamic Steamship Company Ltd ;

(2) Muhammadi Steamship Co. Ltd ;

(3) Pakistan Shipping Line Ltd ;

(4) Chittagong Steamship Corporation Ltd ;

(5) Gulf Shipping Corporation Ltd ;

Private Limited Companies :—

(6) Trans Oceanic Steamship Company Ltd ;

(7) Crescent Shipping Lines Ltd ;

(8) Muhammadi Engineering Works Ltd ; (subsidiary).

Partnership Firms :—

(9) East and West Steamship Co ;

(10) United Oriental Steamship Co ;

THE THIRD SCHEDULE

(*See* section 30)

1. The net worth of an acquired establishment or of the Corporation shall be determined in the following manner, namely :—

(1) Where the acquired establishment is a company, and in the case of the Corporation, the break up value of its shares shall first be determined in accordance with sub-paragraph (a) of paragraph 4 of the Schedule to the Act and thereafter such break up value shall be multiplied by the number of its paid-up shares and to the product thereof shall be added the aggregate value of its paid-up preference shares.

(2) Where the acquired establishment is not a company, in accordance with sub-paragraph (b) of paragraph 4 of the Schedule to the Act.

2. For the purpose of determination of net worth under paragraph 1, the basis shall be the audited balance sheet of the acquired establishment or, as the case may be, the Corporation on the appointed day and not the latest available audited annual balance sheet as stipulated in the Schedule to the Act.

ACT No. LV OF 1976

An Act further to amend the Oil and Gas Development Corporation Ordinance, 1961.

WHEREAS it is expedient further to amend the Oil and Gas Development Corporation Ordinance, 1961 (XXXVII of 1961), for the purposes hereinafter appearing ;

It is hereby enacted as follows :—

1. **Short title and commencement.**—(1) This Act may be called the Oil and Gas Development Corporation (Amendment) Act, 1976.

(2) It shall come into force at once.

2. **Amendment of section 14, Ordinance XXXVII of 1961.**—In the Oil and Gas Development Corporation Ordinance, 1961 (XXXVII of 1961), hereinafter referred to as the said Ordinance, in section 14, for sub-section (2) the following shall be substituted, namely :—

" (2) The Federal Government shall subscribe to the Fund each year such amount, and in such instalments, as the Federal Government may from time to time determine.".

3. **Amendment of section 22, Ordinance XXXVII of 1961.**—In the said Ordinance, in section 22, for the words " may be prescribed " the words " it may, subject to such directions as the Federal Government may from time to time give in this behalf, determine " shall be substituted.

4. **Amendment of section 29, Ordinance XXXVII of 1961.**—In the said Ordinance, in section 29, clause (2) shall be omitted.

ACT No. LVI OF 1976

An Act to provide for the proper management and administration of Auqaf under Federal control

WHEREAS it is expedient to provide for the proper management and administration of Auqaf under Federal control and for matters connected therewith or incidental thereto ;

It is hereby enacted as follows :—

1. **Short title, extent and commencement.**—(1) This Act may be called the Auqaf (Federal Control) Act, 1976.

(2) It extends to the whole of Pakistan.

(3) It shall come into force on such day as the Federal Government may, by notification in the official Gazette, appoint.

2. **Definitions.**—In this Act, unless there is anything repugnant in the subject or context,—

(a) " Administrator " means an Administrator of Auqaf appointed under section 4 ;

(b) " Administrator General " means the Administrator General of Auqaf for Pakistan appointed under section 3 ;

(c) " Chief Administrator of Auqaf " means a Chief Administrator of Auqaf appointed under section 4 ;

(d) " Government " means the Federal Government ;

(e) " prescribed " means prescribed by rules made under this Act ;

(f) " waqf property " means property of any kind permanently dedicated by a person professing Islam for any purpose recognised by Islam as religious, pious or charitable, but does not include property of any waqf such as is described in section 3 of the Musalman Waqf Validating Act, 1913 (VI of 1913), under which any benefit is for the time being claimable for himself by the person by whom the waqf was created or by any member of his family or descendants ;

Explanations.—(i) If a property has been used from time immemorial for any purpose recognized by Islam as religious, pious or charitable, then in spite of there being no evidence of express dedication, such property shall be deemed to be waqf property.

(ii) Property allotted in lieu of or in exchange for waqf property left in India shall be deemed to be waqf property.

(iii) Property of any kind acquired with the sale proceeds or in exchange of or from the income arising out of waqf property or from subscriptions raised for any purpose recognised by Islam as religious, pious or charitable shall be deemed to be waqf property.

(iv) The income from boxes placed at a shrine and offerings, subscriptions or articles of any kind, description or use presented to a shrine or to any person at the premises of a shrine shall be deemed to be waqf property.

(v) Relief of the poor and the orphan, education, worship, medical relief, maintenance of shrine or the advancement of any other object of charitable, religious or pious nature or of general public utility shall be deemed to be charitable purposes.

(vi) Property permanently dedicated for the purposes of a mosque, *takia, khankah, dargah,* or other shrine shall be deemed to be waqf property.

3. **Appointment of Administrator General of Auqaf.**—(1) The Government shall, by notification in the official Gazette, appoint an Administrator General of Auqaf for Pakistan.

(2) No person shall be appointed as Administrator General of Auqaf unless he is a Muslim and possesses such qualifications as may be prescribed.

(3) The Administrator General shall be a corporation sole by the name of the Administrator General of Auqaf, Pakistan, and shall have perpetual succession and an official seal and may sue and be sued in his corporate name.

(4) The Administrator General shall, in the performance of his functions and exercise of his powers under this Act, be subject to the general control of the Government.

4. **Appointment of Chief Administrator and Administrators and Deputy Administrators of Auqaf.**—(1) The Administrator General may, with the previous sanction of the Government, appoint a Chief Administrator of Auqaf for each Province and Administrators of Auqaf and Deputy Administrators of Auqaf for such areas and districts as may be specified in the notification to assist the Administrator General, and any Chief Administrator, Administrator or Deputy Administrator of Auqaf so appointed shall, subject to the general or special orders of the Administrator General, be competent to discharge such duties and exercise such powers of the Administrator General as may be assigned to him, and when discharging such duties or exercising such powers shall have the same privileges and be subject to the same liabilities as the Administrator General.

(2) The Chief Administrators, Administrators or Deputy Administrators appointed under sub-section (1) shall be under the administrative control of the Administrator General of Auqaf.

5. **Other appointments.**—(1) The Administrator General with the previous sanction of Government may, from time to time, determine the number, designation and grade of the officers and servants whom he considers necessary to employ for the purposes of this Act and the amount and nature of the salary, fees and allowances to be paid to each such officer and servant.

(2) All persons employed for the purposes of this Act shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code (Act V of 1860).

6. **Registration of waqf property.**—(1) Every person in charge of, or exercising control over the management of, any waqf property shall, within a period of three months from the commencement of this Act, get such property registered in such manner, and with such authority, as may be prescribed.

(2) Every person creating a waqf after the commencement of this Act shall, within a period of three months from the date of creation of such waqf, get the

property dedicated by the waqf registered in such manner, and with such authority, as may be prescribed.

7. **Taking over of waqf property by Administrator General.**—(1) Notwithstanding anything contained in section 22 of the Religious Endowments Act, 1863 (XX of 1863), or any other law for the time being in force, and notwithstanding any custom or usage, or any decree, judgment or order of any court or other authority, the Administrator General may, by notification in the official Gazette, take over and assume the administration, control, management and maintenance of a waqf property :

Provided that, during the life-time of a person dedicating a waqf property, the Administrator General shall not take over and assume the administration, control, management and maintenance of such waqf property, except with the consent of such person and on such terms and conditions as may be agreed upon between such person and the Administrator General.

Explanation.—For the purposes of this section, "control" and "management" shall include control over the performance and management of religious, spiritual, cultural and other services and ceremonies (Rasoomat) at or in a waqf property.

(2) No person shall perform the services or ceremonies (Rasoomat) referred to in sub-section (1) at or in a waqf property in respect of which a notification under sub-section (1) has been issued, except with the prior permission of the Administrator General and in accordance with such directions as may be given by him.

8. **Eviction of persons wrongfully in possession of waqf properties.**—(1) If any person is in occupation of, or enters upon, or is using any immovable waqf property to the occupation or use of which he is not, or has ceased to be entitled by virtue of any provision of this Act, the Administrator may, after giving such person a reasonable opportunity of showing cause against the action proposed to be taken, have him summarily evicted from such property with the use of such force as may be necessary.

(2) Any crop standing on any property in respect of which action is taken under sub-section (1) shall stand forfeited to the Administrator General of Auqaf, Pakistan.

(3) If any building or other structure has been erected on any property while it was in the occupation or use of a person evicted therefrom under sub-section (1), the Administrator may, by notice in writing, require such person to remove such building or structure within such period, which shall not be less than thirty days of the service of the notice on such person, as may be specified in the notice.

(4) If any building or other structure required by notice under sub-section (3) to be removed is not removed within the period specified in the notice, such building or structure shall stand forfeited to the Administrator General of Auqaf, Pakistan.

9. **Power to terminate a lease or resume a tenancy for breach of conditions.**—(1) If the Administrator is satisfied that a lessee or tenant of any immovable waqf property has committed a breach of the conditions of the lease or tenancy, the Administrator may give to such lessee or tenant a notice to appear and state his objections to an order being made for the termination of the lease or resumption of the tenancy.

(2) The lessee or tenant to whom a notice is given under sub-section (1) may state that the breach of the conditions of the lease or tenancy specified in the notice is capable of rectification and undertake to rectify it.

(3) If the Administrator is satisfied that the breach is capable of rectification, he shall allow to the lessee or tenant, as the case may be, reasonable time, which shall not be less than thirty days or more than sixty days, to rectify it and may make an order terminating the lease or resuming the tenancy if the lessee or tenant fails to rectify the breach within the time allowed.

(4) Where an order terminating the lease or resuming the tenancy has been passed under the provisions of sub-section (3), the Administrator may forthwith re-enter upon the waqf property and resume possession of it, subject to the payment of compensation to be fixed by the Administrator for un-cut and un-gathered crops or for the improvements, if any, that may have been made by the lessee or tenant under the terms of the lease or tenancy or with the permission of the Administrator General.

(5) If a lease terminated, or a tenancy resumed, under sub-section (3), is allotted to any other person, the amount of the compensation, if any, paid to the outgoing lessee or tenant under sub-section (4) may be recovered from such person.

10. **Appeal and finality.**—(1) Any person evicted under the provisions of section 8 or aggrieved by an order of termination of lease or resumption of tenancy made under section 9, may, within sixty days of such eviction, or within thirty days of the order of termination of the lease or resumption of tenancy, prefer an appeal to the Administrator General and the Administrator General may, after giving such person an opportunity of being heard, confirm, modify or vacate the order made by the Administrator under section 8 or 9.

(2) If there is no appeal against an eviction under section 8 or against an order of termination of lease of resumption of tenancy made under section 9, the eviction, termination of lease or resumption of tenancy, as the case may be, shall be final, and when there is an appeal, the decision of the Administrator General in appeal shall be final.

11. **Petition to District Court against the notification.**—(1) Any person claiming any interest in any waqf property in respect of which a notification has been issued under section 7 may, within thirty days of the publication of such notification, petition to the District Court within whose jurisdiction the waqf property or any part thereof is situated, for a declaration that the property or any part of it is not waqf property:

Provided that, notwithstanding anything contained in any law for the time being in force, and notwithstanding any custom or usage or any decree, judgment or order of any court or other authority, no such petition shall lie in respect of any interest in the income, offerings, subscriptions or articles referred to in Explanation IV to clause (f) of section 2, or the services or ceremonies (Rasoomat) referred to in the Explanation to sub-section (1) of section 7.

(2) The District Court may, for reasons to be recorded, refuse to issue any process for compelling the attendance of any witness for the purpose of examination or the production of any document or other thing if it considers that it has been made for the purpose of vexation or delay.

12. **Appeal against the decision of District Court.**—Any person aggrieved by a decision of the District Court under sub-section (1) of section 11 may, within sixty days of the order, appeal to the High Court.

13. **Decision of the District Court under section 11 or of the High Court under section 12 to be final.**—If there is no appeal, the decision of the District Court, and if there is an appeal, the decision of the High Court in appeal, shall be final.

14. **Administrator General of Auqaf to prepare scheme for the administration and development of waqf property.**—(1) The Administrator General shall, as respects the waqf property in respect of which a notification under section 7 has been issued and the gross annual income from which exceeds five thousand rupees, and in other cases may, settle a scheme for the administration and development of such waqf property.

(2) In the settlement of a scheme the Administrator General shall, as far as may be, give effect to such wishes of the person dedicating as can be ascertained.

15. **Sale of waqf property by Administrator General of Auqaf and application of proceeds.**—Government may, where it is satisfied that circumstances exist which make it necessary to sell or otherwise dispose of any waqf property in order,—

(a) to secure maximum economic benefits out of such property and to avoid loss or damage to such property ; or

(b) to serve the best public interest and public purpose for which such property was dedicated ; or

(c) to give effect to such wishes of the person dedicating the property as can be ascertained ; or

(d) in the absence of evidence of express dedication, to enable the property to be used for the purpose for which it has been used or for any purpose recognised by Islam as religious, pious or charitable ; or

(e) to provide maintenance to those who, on account of unemployment, sickness, infirmity or old age are unable to maintain themselves ; or

(f) to provide education, medical aid, housing, public facilities and services such as roads, sewerage, gas and electric power ; or

(g) to prevent danger to life, property or public health, permit the Administrator General to do so and to invest the proceeds in accordance with its directions.

16. **Use of waqf property and application of income therefrom.**—Subject to the provision of this Act, a waqf property shall be used for the purpose for which it was dedicated or has been used or for any purpose recognised by Islam as religious, pious or charitable, as the Administrator General may deem fit.

17. **Administrator General of Auqaf to maintain accounts.**—(1) The Administrator General shall maintain a complete record of all properties under his control and management, and shall keep accounts of income and expenditure of such properties, including expenditure on the Administrator General and his establishment, in such manner as may be prescribed.

(2) All moneys received or realised by the Administrator General in respect of properties under his control and management shall form, and be credited to, a fund to be called the Federal Auqaf Fund which shall be under the control of, and operated upon by, the Administrator General, subject to general supervision of Government, and shall be kept in such custody as may be prescribed.

(3) At the end of each financial year, the accounts maintained by the Administrator General shall be audited by such person or authority as may be prescribed and the audit report with the comments of the Administrator General shall be submitted to the Government.

(4) The Government shall, as soon as possible after the receipt of the audit report and the comments of the Administrator General under sub-section (3), lay the audit report and the comments of the Administrator General before both Houses.

18. **Rents and lease money recoverable as an arrear of land revenue.**—Any sum due as rent or lease money in respect of any waqf property the administration whereof has been taken over and assumed by the Administrator General, if not paid within thirty days of its having become due, may be recovered as an arrear of land revenue.

19. **Power to call for return, etc., and issue directions.**—The Administrator General may require any person in charge of, or exercising control over the management of any waqf property, the administration whereof has not been taken over and assumed by him under section 7, to furnish him with any return, statement or other information regarding such waqf property, or a copy of any document relating to such property, and such person shall comply with such order without unreasonable delay.

20. **Power to issue directions as to management, etc., of waqf property.**—The Administrator General may issue to any person in charge of, or exercising control over the management of, any waqf property the administration whereof has not been taken over and assumed by the Administrator General under section 7 such directions for the proper administration, control, management and maintenance of such waqf property as the Administrator General may deem necessary, including directions prohibiting delivery of sermons, *khutbas* or lectures which may contain any matter calculated to arouse feelings of hatred or disaffection amongst various religious sects or groups in the country and directions prohibiting such person from indulging in party politics through sermons, *khutbas* or lectures, and such person shall comply with such directions.

21. **Bar of jurisdiction.**—Save as expressly provided in this Act, no civil or revenue court or any other authority shall have jurisdiction—

(a) to question the validity of anything done under this Act by or at the instance of the Administrator General ; or

(b) in respect of any matter which the Administrator General is empowered by or under this Act to determine or settle ; or

(c) to grant an injunction or make an interim order in relation to any proceeding before, or anything done or intended to be done by or at the instance of, the Administrator General under this Act.

22. **Effect of orders, etc., inconsistent with other enactments, etc.**—Every order made and every action taken under this Act shall have effect notwithstanding anything contained in any document decree or order of any court, any law other than this Act for the time being in force or any instrument having effect by virtue of any such law.

23. **Protection of action taken under this Act.**—No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

24. **Offences.**—(1) Whoever obstructs or offers any resistance to, or impedes or otherwise interferes with,—

(a) any authority, officer or person exercising any power or discharging any duty conferred or imposed upon it or him by or in pursuance of this Act or otherwise discharging any lawful function under this Act; or

(b) any person who is carrying out the orders of any such authority, officer or person as aforesaid;

shall be punishable with imprisonment for a term which may extend to five years, or with fine, or with both.

(2) Whoever disobeys or wilfully fails to comply with any requisition or direction issued by the Administrator General under section 19 shall be punishable with fine which may extend to five hundred rupees, and, in the case of a continuing failure, with an additional fine which may extend to fifty rupees for every day after the first during which the failure continues.

25. **Power to make rules.**—(1) Government may frame rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(a) prescribing the powers and duties of the officers appointed under this Act;

(b) regulating the delegation of any powers by the Administrator General to a Chief Administrator, an Administrator or a Deputy Administrator;

(c) prescribing the terms and conditions on which waqf property may be leased or let out;

(d) regulating the manner in which schemes for administration and development of waqf properties shall be prepared;

(e) regulating the conditions of service and conduct of the persons employed under this Act;

(f) regulating the conduct of litigation by or against the Administrator General;

(g) prescribing the manner in which the accounts shall be kept;

(h) prescribing the authority for auditing the accounts maintained by the Administrator General;

(i) prescribing the syllabus and curricula for the proper education and training of Imams and Khatibs and of other employees of the Auqaf institutions in Pakistan;

(j) prescribing and regulating the standards, syllabi and curricula of institutions providing Islamic religious education, by whatever name called, and, where considered necessary in the public interest, the scrutiny of the accounts of such institutions;

(k) to appoint Advisory Committees consisting of public representatives, Ulama and other experts.

26. **Repeal and savings.**—(1) The West Pakistan Waqf Properties Ordinance, 1961 (W. P. Ordinance No. XXVIII of 1961), is hereby repealed.

(2) Everything done or purporting to have been done, action taken, liability or penalty incurred or proceeding commenced, officer appointed or person authorised, jurisdiction or power conferred, rule made or order issued under any of the provisions of the Ordinance repealed by sub-section (1) shall, so far as it is not inconsistent with the provisions of this Act, continue in force, and so far as may be, be deemed to have been done, taken, incurred, commenced, appointed, authorised, conferred, made or issued under this Act.

M. A. HAQ,
Secretary.

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PART I

Acts, Ordinances, President's Orders and Regulations

NATIONAL ASSEMBLY SECRETARIAT

Islamabad, the 4th September, 1976

The following Acts of Parliament received the assent of the President on the 4th September, 1976, and are hereby published for general information :—

ACT No. LVII OF 1976

An Act to regulate the operation and development of flour milling

WHEREAS it is expedient to make provision to regulate the operation and development of flour milling and to provide for matters connected therewith or incidental thereto ;

AND WHEREAS paragraph (b) of clause (1) of Article 253 of the Constitution provides that Parliament may by law declare that any trade, business, industry or service specified in such law shall be carried on or owned, to the exclusion, complete or partial, of other persons, by the Federal Government or a Provincial Government or by a corporation controlled by any such Government ;

It is hereby enacted as follows :—

1. **Short title, extent and commencement.**—(1) This Act may be called the Flour Milling Control and Development Act, 1976.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. **Definitions.**—In this Act, unless there is anything repugnant in the subject or context,—

(a) "acquired establishment" means an establishment in respect of which an order has been made under section 5 ;

(b) "bank rate" means the bank rate determined and made public under the provisions of the State Bank of Pakistan Act, 1956 (XXXIII of 1956) ;

(c) "Corporation" means a body corporate wholly owned and controlled by the Federal Government or by the Government of a

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Province, including any body or authority controlled by the Federal Government or the Government of a Province, to which an acquired establishment is transferred under section 6 ;

(d) "creditor" means any person to whom an acquired establishment owes any amount of money ;

(e) "debtor" means a person who owes any amount of money to an acquired establishment ;

(f) "establishment" means any company, firm, concern, institution or enterprise the whole or any part of the undertaking of which pertains to the industry, and includes the business related to the industry, and any office, shop, building, factory, land, godown, yard, stocks, stores, vehicles and assets in any form, so related, wherever they may be ;

Explanation.—The Federal Government shall decide whether the business is related or not to the industry and the decision of the Federal Government shall be final.

(g) "foreign investor" means a person, other than a citizen of Pakistan, who has made investment in Pakistan and to whom—

(i) the Federal Government has given an assurance that he will have the right to repatriate from Pakistan the amount of his investment or the income arising therefrom or both such amount and such income ; or

(ii) the Federal Government has not given such assurance but whom it has assured that, in the event of compulsory acquisition of the shares held in an establishment by the shareholders, he will not be treated less favourably than an investor to whom such assurance had been given ;

(h) "industry" means the flour milling industry composed of one or more flour mills equipped with rollers ;

(i) "Manager" means the Manager appointed under section 7 ;

(j) "person" includes an individual, a Hindu undivided family, a partnership firm and an association of persons or a body of individuals, Government of a Province and a local authority ;

(k) "previous management" in relation to an establishment means the person, board of directors or other body or authority in whom or in which the management of the establishment vested immediately before an order has been made under section 5 in respect thereof ;

(l) "roller" means a roller body having a set of rollers of any size ;

(m) "shareholder" means a shareholder in the share capital of an establishment and includes a stockholder ; and

(n) words and expressions used but not defined in this Act shall have the same meaning as in the Companies Act, 1913 (VII of 1913).

3. **Declaration.**—It is hereby declared that the industry shall be owned and carried on by the Federal Government or a Provincial Government or by a Corporation controlled by a Provincial Government, to the exclusion of all other persons, except a foreign investor :

Provided that the Federal Government may, if it is satisfied that the objective of making unadulterated and wholesome wheat flour available to the consumers at reasonable prices can be achieved even if establishments in any part of Pakistan which have less than six rollers per establishment are permitted to own and carry on the industry, by notification in the official Gazette, exempt such establishments from the operation of the provisions of this section from such date not preceding the date of commencement of this Act as may be specified in the notification.

4. **Act to override other laws.**—The provisions of this Act shall have effect notwithstanding anything contained in the Companies Act, 1913 (VII of 1913), or the Companies (Managing Agency and Election of Directors) Order, 1972 (P.O. No. 2 of 1972), or any other law for the time being in force, or any agreement, contract, memorandum or article of association of a company.

5. **Power to acquire ownership and management.**—(1) The Federal Government may, by an order published in the official Gazette, acquire the ownership and management of any establishment.

(2) On the making of such order,—

(a) the previous management shall stand divested of such management ;

(b) in the case of an establishment which is a company or an establishment owned by a company, the shares of company or the proprietary interest of the company in the establishment shall, in the discretion of the Federal Government, vest in that Government ; and

(c) in the case of an establishment owned by a person, the proprietary interest of such person shall vest in the Federal Government :

Provided that nothing in this sub-section shall apply to the shares, or proprietary interest, held by a foreign investor.

6. **Management of establishment.**—(1) The Federal Government may in respect of acquired establishments, by notification in the official Gazette, transfer the ownership and management of one or more such establishments to a Provincial Government on such terms and conditions as may be determined by the Federal Government.

(2) A Provincial Government to which the ownership and management is transferred under sub-section (1) shall be empowered to set up, by notification in the official Gazette, a Corporation and to transfer the ownership and management of the affairs of such establishments to such Corporation or direct that such establishments shall be owned and managed by an existing Corporation under its control :

Provided that, if the Federal Government rescinds a notification made under sub-section (1), the ownership and management of the acquired establishment concerned shall revest in the Federal Government on the date on which the notification is rescinded.

(3) A Corporation set up under sub-section (2) shall be a body corporate having perpetual succession and a common seal, with power to hold and dispose of property, and shall by the name assigned to it by the notification issued under that sub-section sue and be sued.

(4) The Provincial Government may, with the approval of the Federal Government, make such provisions for the management of the affairs of a Corporation set up under sub-section (2), including provisions relating to finances, audit of accounts and administrative arrangements, as it may deem fit.

7. **Appointment of Managers.**—(1) Where the Federal Government has made an order under section 5 in respect of an establishment, it may appoint a Manager in respect of such establishment :

Provided that where the ownership and management of an establishment has been transferred to a Corporation under section 6, the Manager shall be appointed by such Corporation.

(2) Upon the appointment of Manager in respect of an acquired establishment, the administration and management of the affairs of such establishment shall vest in the Manager, subject to such directions as the appointing authority may give from time to time in this behalf.

(3) The Manager shall hold office during the pleasure of the appointing authority on such terms and conditions as may be specified by such authority.

8. **Regulations.**—The Corporation to which the ownership and management of an establishment has been transferred under section 6 may, with the prior approval in writing of the Provincial Government, make such regulations as appear to it to be necessary for carrying out the purposes of this Act.

9. **Delegation of powers, etc.**—(1) The Federal Government may, by notification in the official Gazette, direct that all or any of its powers under this Act, shall, in such circumstances and subject to such conditions as may be specified in the notification, be exercisable also by a Provincial Government or a Corporation or any other person.

(2) The Federal Government may from time to time issue such directions to, and call for such information or reports from, the Corporation through Provincial Government as the Federal Government may deem expedient.

10. **Compensation.**—Where the Federal Government acquires the shares or proprietary interests of an establishment under section 5 these shall be paid compensation the amount of which shall be determined and paid by the Federal Government on the basis of the principles set out in the Schedule.

11. **Reorganisation.**—Where the shares of a company are owned wholly by the Corporation, the assets and liabilities of such company may, with the prior approval in writing of the Federal Government, be acquired by the Corporation, whereafter the company shall stand wound up.

12. **Prohibition to obstruct.**—No person shall, unless so authorised by the Federal Government or the Provincial Government or the Corporation, give any instruction to the Manager nor shall any person in any manner obstruct him in the discharge of his duties or the performance of his functions.

13. **Debtor.**—(1) The Corporation may, by notice in writing, call upon a debtor to pay to the Corporation or to the acquired establishment specified in such notice, the amount of money due from him to the establishment, within a period of thirty days commencing from the date of receipt or such notice by the debtor.

(2) Where the debtor fails to pay the amount due from him within the period specified in the notice under sub-section (1), the Corporation shall have the same power of affecting recovery as the Industrial Development Bank of Pakistan has under sections 39, 40 and 41 of the Industrial Development Bank of Pakistan Ordinance, 1961 (XXI of 1961).

14. **Creditor.**—(1) A creditor of an acquired establishment may apply to the Corporation for payment of the amount due to him from such establishment.

(2) The Corporation may, on receipt of an application under sub-section (1), and after such enquiry as it may deem fit, either reject such application or, if satisfied, direct the acquired establishment to pay the amount due to the creditor in such instalments and within such period as may be specified in the direction.

15. **Power to revoke contract, etc.**—If any contract or agreement entered into, or any obligation undertaken, by any previous management of an acquired establishment is declared by the Federal Government or a Provincial Government, in case such establishment has been transferred to it under section 6, to be against the interest of the establishment, such contract, agreement or obligation shall stand revoked and the establishment shall not be liable for any loss or damage suffered by the previous management by reason of such revocation :

Provided that a declaration under this section shall be made after such enquiry as the Government concerned may deem fit and after giving an opportunity to the person or persons with whom such contract or agreement was entered into, or to whom such obligation was undertaken, to show cause why such declaration shall not be made :

Provided further that this section shall not be construed as preventing any party to the contract, agreement or obligation so revoked from initiating action in a court of law against the previous management.

16. **Continuance in service of the employees.**—(1) Where the ownership and management of an acquired establishment is transferred to a Corporation under section 6, every wholetime employee of such establishment shall, on and from the date of such transfer, become an employee of the Corporation, and shall continue to hold his office on the same terms and conditions as were applicable to him immediately before such transfer, until his employment in the Corporation is terminated or his terms and conditions of service are altered by the Corporation :

Provided that if a question arises whether a person was a wholetime employee of an establishment or not, the decision of the Corporation shall be final.

(2) Where any employee of the acquired establishment has under the provisions of sub-section (1) become the employee of a Corporation, the Corporation may alter the terms and conditions of service of such employee as it thinks fit, and, if the alteration is not acceptable to the employee, the Corporation may terminate his employment by giving him compensation equivalent to his remuneration for three months, or if his contract of service provides for a shorter notice for termination of employment, for the period so provided.

Explanation.—The compensation payable to an employee under sub-section (2) shall be in addition to, and not in derogation of, any of his rights as to pension, gratuity, provident fund money or other benefit to which he may be entitled under his contract of service.

(3) The Corporation may in its discretion transfer an employee from an acquired establishment to any other such establishment under its control or to its head office or regional offices.

(4) The transfer of the services of an employee of an establishment to a Corporation shall not, except as provided in this section, entitle any such employee to any compensation, and no such claim shall be entertained by any court, tribunal or other authority.

17. **General effect of vesting of establishment.**—(1) Where the management of an acquired establishment has been transferred to a Corporation under section 6, all contracts, agreements and other instruments of whatever nature

subsisting or having effect immediately before the date of the transfer, to which such establishment was a party or which were in respect of such establishment, shall, subject to the provisions of section 15, be of as full force and effect against or in favour of the Corporation, and may be enforced or acted upon as fully and effectively as if, instead of the establishment, the Corporation had been a party thereto, or as if they had been entered into or issued in respect of the Corporation.

(2) If on the date of the transfer of an acquired establishment to a Corporation any suit, appeal or legal proceeding of whatever nature is pending by or against such establishment, it shall not abate, discontinue or be in any way prejudicially affected by reason of such transfer or anything done under this Act, but the suit, appeal or other proceeding may be continued, prosecuted and enforced by or against the Corporation.

18. **Duty to deliver possession of property.**—(1) Where the ownership and management of an acquired establishment has been transferred to a Corporation under section 6, every person who has in his possession, custody or control any property of such establishment, shall forthwith deliver the property to the Corporation.

(2) Without prejudice to the provisions of sub-section (1), it shall be lawful for the Corporation to take all necessary steps for acquiring possession of all properties which have been transferred to and vested in it under this Act.

Explanation.—In this section, "property" means property of any kind, including books, documents and papers and also includes any right or interest in such property.

19. **Provident, superannuation and other like funds.**—(1) Where an establishment which has been transferred to a Corporation under section 6 has established a provident or superannuation fund or any other like fund for the benefit of its employees, and has constituted a trust in respect thereof, hereinafter referred to as an existing trust, the moneys standing to the credit of any such fund on the day of such transfer, together with any other assets pertaining to such fund, shall, subject to the provisions of sub-section (2), vest in the Corporation on that day.

(2) Where all the employees of any such establishment do not become the employees of a Corporation under section 16, the moneys and other assets belonging to any such fund as is referred to in sub-section (1) shall be apportioned between the persons responsible for the fund and the Corporation, in such manner as may be prescribed by rules, and in the case of any dispute regarding such apportionment, the decision of the Federal Government shall be final.

(3) The Corporation shall, as soon as may be after an establishment is transferred to it under section 6, constitute in respect of the moneys and other assets which are vested in it under this section, one or more trusts having objects as similar to the objects of the existing trusts as in the circumstances may be practicable.

(4) Where all the moneys and other assets belonging to an existing trust are vested in the Corporation under this section, the person responsible for such trust shall, as from the date of such transfer, be discharged from the trust, except in respect of things done or omitted to be done before the transfer of the establishment.

20. **Bar to jurisdiction.**—(1) No court shall call in question or permit to be called in question any provision of this Act, or of any rule or order made, or anything done or any action taken thereunder.

(2) No court shall grant any injunction or make any order, nor shall any court entertain any proceedings, in relation to anything done or intended to be done under this Act.

21. **Indemnity.**—No suit, prosecution or other legal proceedings shall lie against the Federal Government, a Provincial Government, Corporation, Manager or any other person for anything in good faith done or intended to be done under this Act or any rule or order made thereunder.

22. **Penalties.**—Whoever—

(1) obstructs or resists or hinders any person in the discharge of his duties under this Act ; or

(2) destroys, tampers with, alters or defaces any property or document belonging, or pertaining, to an acquired establishment ; or

(3) refuses or fails to deliver possession of any property or document belonging, or pertaining, to an acquired establishment ; or

(4) contravenes any of the provisions of section 3, section 12 or section 18 ;

shall be punishable with rigorous imprisonment for a term which may extend to three years, or with fine or with both :

Provided that no court shall take cognisance of an offence under this Act unless a complaint in this behalf is made by the Corporation.

23. **Change of name of an acquired establishment.**—The Federal Government may, by notification in the official Gazette, specify a new name by which an acquired establishment shall be known from such date as may be specified in the notification.

24. **Composite enterprises and organisations.**—Where an acquired establishment is engaged in a business not directly related to the industry, the Federal Government may take such action for the bifurcation of such business from business directly related to the industry as it may deem fit ; and the decision of the Federal Government as to such bifurcation shall be final.

25. **Assistance to a Corporation.**—The Federal Government, or a Provincial Government, shall provide such assistance as may be needed by the Corporation for carrying out the purposes of this Act.

26. **Power to make rules.**—(1) The Federal Government may make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for, or empower a Provincial Government or a Corporation to make orders providing for all or any of the following matters, namely :—

(a) ensuring the safety of the properties relating to an acquired establishment ;

(b) ensuring the due performance of duties by the persons connected with the acquired establishment ;

(c) prohibiting anything likely to interfere with the proper functioning of an acquired establishment ;

(d) the administration, management and disposal, by way of transfer or otherwise, of any property relating to or held or managed by or on behalf of an acquired establishment;

(e) prohibiting the departure from any area of any person connected with the administration, control or functioning of an acquired establishment, save with the leave of the Manager, or any other person authorised in this behalf by the Federal Government or a Provincial Government or a Corporation;

(f) the taking over or control of any business, trade, industry, firm or company which in the opinion of the Federal Government is a subsidiary of an acquired establishment;

(g) the requisitioning of any property, movable or immovable, belonging to an acquired establishment;

(h) the requisitioning of any property, movable or immovable, the requisition of which is, in the opinion of the Federal Government, required for the proper functioning of an acquired establishment;

(i) preventing the entry of any person into any place, yard, factory, mill, shop, or office used for the purpose of an acquired establishment, or any of its subsidiaries;

(j) the taking of any steps for collecting, controlling and disposing of the assets, movable or immovable, of any acquired establishment;

(k) determining the terms and conditions for the transfer of acquired establishments under sub-section (1) of section 6 and for their revesting in the Federal Government under sub-section (2) of that section;

(l) preparation and audit of accounts of the Corporation and of the acquired establishments and matters ancillary thereto; and

(m) control of the Federal Government over the accounts of the Corporation and of the acquired establishments.

27. **Removal of difficulties.**—If any difficulty arises in giving effect to any provision of this Act, the Federal Government may make such order, not inconsistent with the provisions of this Act, as may appear to it to be necessary for the purpose of removing the difficulty:

Provided that no such power shall be exercised after the expiry of one year from the commencement of this Act.

28. **Repeal.**—The Flour Milling Control and Development Ordinance, 1976 (XXIV of 1976), is hereby repealed.

THE SCHEDULE

(*see* section 10)

Principles and the manner for payment of compensation in respect of the shares or proprietary interests of an establishment acquired by the Federal Government.

1. The value of the compensation for the shares of establishments acquired by the Federal Government shall be assessed—

(a) in the case of the shares not quoted on any of the stock exchanges, at the Break-up Value, and

(b) in the case of the shares quoted on any of the stock exchanges, at the Break-up Value or the Market Value, whichever is more, provided that the Market Value will be taken into account only if the shares have been traded on the stock exchange for at least three years, and not less than 30% of the shares have been traded during the three years preceding the date of the acquisition of the shares.

2. Where the proprietary interests in such an establishment are acquired by the Federal Government, the value of the compensation for the interests so acquired shall be assessed at the Net Worth of the proprietary interests of such establishments.

3. The compensation payable in accordance with the principles indicated above shall be paid by the Federal Government in cash or in the form of Government Bonds redeemable at any time at the option of the Federal Government within a period of fifteen years, and carrying, with effect from the date of acquisition, a rate of interest one per cent above the bank rate as notified by the State Bank of Pakistan from time to time. In the case of persons holding shares of a total value less than Rs. 5,000, the Bonds will be redeemable within a period of two years. The Bonds shall be negotiable and shall be eligible as security for advances.

4. **Definitions.**—In this Schedule,—

(a) "Break-up Value" shall mean the value of the shares of a company as determined by the Auditors appointed by the Federal Government on the basis of the Balance Sheet of the company, drawn up as on the date of acquisition, to be prepared and verified by such auditors in accordance with clause (c) of sub-rule (2) of rule 8 of the Wealth-tax Rules;

(b) "Market Value" shall mean the average value of the shares of a company as quoted on the stock exchange nearest to the Head Office of the company on closing on all working days within three years of the date of order of acquisition of such shares under this Act;

(c) "Net Worth Value" shall mean the value of the proprietary interests of a company or other person in an establishment which are acquired under this Act, as determined by the auditors appointed by the Federal Government, on the basis of the Balance Sheet of such establishment, drawn up as on the date of acquisition, to be prepared and verified by such auditors. The Net Worth Value shall be determined by valuing the Fixed Tangible Assets appearing in the Balance Sheet at their written down values, and valuing the Current Assets, *e.g.* stores, inventory, work in progress, advances and pre-payments, cash and bank balances, at their cost or market value, whichever is lower. From the sum total of the Fixed and the Current Assets so valued as aforesaid, all the outstanding liabilities appearing in the Balance Sheet shall be deducted, thereby arriving at the Net Worth Value of the proprietary interests in such establishment.

ACT No. LVIII OF 1976

An Act to regulate the operation and development of rice milling

WHEREAS it is expedient to make provision to regulate the operation and development of rice milling and to provide for matters connected therewith or incidental thereto;

AND WHEREAS paragraph (b) of clause (1) of Article 253 of the Constitution provides that Parliament may by law declare that any trade, business, industry or service specified in such law shall be carried on or owned, to the exclusion, complete or partial, of other persons, by the Federal Government or a Provincial Government or by a corporation controlled by any such Government;

It is hereby enacted as follows:—

1. **Short title, extent and commencement.**—(1) This Act may be called the Rice Milling Control and Development Act, 1976.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. **Definitions.**—In this Act, unless there is anything repugnant in the subject or context,—

(a) "acquired establishment" means an establishment in respect of which an order has been made under section 5;

(b) "bank rate" means the bank rate determined and made public under the provisions of the State Bank of Pakistan Act, 1956 (XXXIII of 1956);

(c) "Board" means the Board of Directors of the Corporation;

(d) "Chairman" means Chairman of the Corporation;

(e) "Corporation" means the Rice Milling Corporation of Pakistan established under section 7;

(f) "creditor" means any person to whom an acquired establishment owes any amount of money;

(g) "debtor" means a person who owes any amount of money to an acquired establishment;

(h) "establishment" means any company, firm, concern, institution or enterprise the whole or any part of the under-taking of which pertains to the industry, and includes the business related to the industry and any office, shop, factory, land, building, godown, yard, stocks, stores, vehicles, and assets in any form, so related, wherever they may be;

Explanation.—The Federal Government shall decide whether the business is related or not to the industry and the decision of the Federal Government shall be final;

(i) "foreign investor" means a person, other than a citizen of Pakistan, who has made investment in Pakistan and to whom—

(i) The Federal Government has given an assurance that he will have the right to repatriate from Pakistan the amount of his investment or the income arising therefrom or both such amount and such income; or

(ii) The Federal Government has not given such assurance but whom it has assured that, in the event of compulsory acquisition of the shares held in an establishment by the shareholders he will not be treated less favourably than an investor to whom such assurance had been given;

(j) "industry" means the rice milling industry, composed of one or more rice mills equipped with hullers, shellers or automatic plant;

(k) "Manager" in relation to an establishment means the Manager appointed under section 14;

(l) "person" includes an individual, a Hindu undivided family, a partnership firm and an association of persons or a body of individuals, Government of a Province and a local authority;

(m) "previous management" in relation to an establishment means the person, board of directors or other body or authority in whom or in which the management of the establishment vested immediately before an order has been made under section 5 in respect thereof;

(n) "shareholder" means a shareholder in the share capital of an establishment and includes a stockholder;

(o) words and expressions used but not defined in this Act shall have the same meaning as in the Companies Act, 1913 (VII of 1913).

3. **Declaration.**—It is hereby declared that the industry shall be carried on and owned by the Federal Government, or by the Corporation, to the exclusion of all other persons, except a foreign investor:

Provided that, if the Federal Government is satisfied that the objective of making wholesome rice available to the consumers at reasonable prices can be achieved even if rice mills in existence at the commencement of this Act and equipped with not more than one huller are exempted from the operation of the provisions of this section, the Federal Government may, by notification in the official Gazette, so exempt such mills subject to such conditions as to the working thereof as it may deem fit.

4. **Act to override other laws.**—The provisions of this Act shall have effect notwithstanding anything contained in the Companies Act, 1913 (VII of 1913), or the Companies (Managing Agency and Election of Directors) Order, 1972 (P. O. No. 2 of 1972), or any other law for the time being in force, or any agreement, contract, memorandum or article of association of a company.

5. **Power to acquire ownership and management.**—(1) The Federal Government may, by an order published in the official Gazette, acquire the ownership and management of any establishment.

(2) On the making of such order,—

(a) the previous management shall stand divested of such management;

(b) in the case of an establishment which is a company or an establishment owned by a company, the shares of the company or the proprietary interest of the company in the establishment shall, in the discretion of the Federal Government, vest in that Government;

(c) in the case of an establishment owned by a person, the proprietary interest of such person shall vest in the Federal Government:

Provided that nothing in this sub-section shall apply to the shares or proprietary interest held by a foreign investor.

6. **Transfer of ownership and management.**—The Federal Government may, by notification in the Official Gazette, transfer the ownership and management of an acquired establishment to the Corporation.

7. **Rice Milling Corporation of Pakistan.**—(1) There shall be a corporation to be known as the Rice Milling Corporation of Pakistan.

(2) The Corporation shall be a body corporate having perpetual succession and a common seal, with power to hold and acquire property, and shall sue and be sued by its name.

(3) The Federal Government shall, as soon as may be, appoint the Chairman of the Corporation who shall be the chief executive thereof and a Board of Directors composed of not more than nine members.

(4) The Chairman and the Directors shall hold office during the pleasure of the Federal Government on such terms and conditions as it may determine.

(5) The Corporation shall own, manage and direct the affairs of the acquired establishments, and is hereby empowered to set up such new establishments as it may deem fit.

8. **Functions of the Corporation.**—The Corporation shall ensure efficient operation of the acquired establishments and perform such other functions as may, from time to time, be assigned to it by the Federal Government.

9. **Fund of the Corporation.**—There shall be constituted for the Corporation a Fund to which shall be credited all the sums received by the Corporation and out of which shall be defrayed all expenditure incurred by the Corporation including expenditure on the emoluments of the Chairman, Directors, officers, staff, experts and consultants of the Corporation.

10. **Capital of the Corporation.**—The capital of the Corporation shall be provided wholly by the Federal Government which shall also determine the amount of such capital, and the terms and conditions on which it shall be provided.

11. **Officers, etc., of the Corporation.**—The Corporation may from time to time appoint such officers, staff, experts and consultants as it may deem fit and may determine their terms and conditions of service.

12. **Assistance to the Corporation.**—The Federal Government, or a Provincial Government, shall provide such assistance as may be needed by the Corporation for carrying out the purposes of this Act.

13. **Head office of the Corporation.**—(1) The head office of the Corporation shall be at Lahore.

(2) The Corporation may set up such regional and other offices as it may require.

14. **Appointment of Managers.**—(1) Where the Federal Government has made an order under section 6 in respect of an establishment, the Corporation may appoint a Manager in respect of such establishment.

(2) Upon the appointment of Manager in respect of an establishment, the administration and management of the affairs of such establishment shall vest in the Manager subject to such directions as the Corporation may give from time to time in this behalf.

(3) The Manager shall hold office during the pleasure of the Corporation on such terms and conditions as may be specified by the Corporation.

15. **Regulations.**—The Corporation may, with the prior approval in writing of the Federal Government, make such regulations as appear to it to be necessary for carrying out the purposes of this Act.

16. **Delegation of Powers, etc.**—(1) The Federal Government may, by notification in the official Gazette, direct that all or any of its powers under this Act shall, in such circumstances and subject to such conditions as may be specified in the notification, be exercisable by the Corporation or by any other person.

(2) The Federal Government may from time to time issue such directions to, and call for such information or reports from, the Corporation as the Federal Government may deem expedient.

17. **Compensation.**—Where the Federal Government acquires the ownership of any establishment under section 5, there shall be paid compensation the amount of which shall be determined and paid by the Federal Government on the basis of the principles set out in the Schedule.

18. **Reorganisation.**—Where the shares of a company are owned wholly by the Corporation, the assets and liabilities of such company may, with the prior approval in writing of the Federal Government, be acquired by the Corporation, whereafter the company shall stand wound up.

19. **Prohibition to obstruct.**—No person shall, unless so authorised by the Federal Government or the Corporation, give any instruction to the Manager, nor shall any person in any manner obstruct him in the discharge of his duties or the performance of his functions.

20. **Debtor.**—(1) The Corporation may, by notice in writing, call upon a debtor to pay to the Corporation or to the acquired establishment specified in such notice, the amount of money due from him to the establishment, within a period of thirty days commencing from the date of receipt of such notice by the debtor.

(2) Where the debtor fails to pay the amount due from him within the period specified in the notice under sub-section (1), the Corporation shall have the same power of affecting recovery as the Industrial Development Bank of Pakistan has under sections 39, 40 and 41 of the Industrial Development Bank of Pakistan Ordinance, 1961 (XXXI of 1961).

21. **Creditor.**—(1) A creditor of an acquired establishment may apply to the Corporation for payment of the amount due to him from such establishment.

(2) The Corporation may, on receipt of an application under sub-section (1), and after such enquiry as it may deem fit, either reject such application, or, if satisfied, direct the acquired establishment to pay the amount due to the creditor in such instalments and within such period as may be specified in the directions.

22. **Power to revoke contract, etc.**— If any contract or agreement entered into, or any obligation undertaken, by any previous management of an acquired establishment is declared by the Federal Government to be against the interest of the establishment, such contract, agreement or obligation shall stand revoked and the establishment shall not be liable for any loss or damage suffered by the previous management by reason of such revocation :

Provided that a declaration under this section shall be made after such enquiry as the Federal Government may deem fit and after giving an opportunity to the person or persons with whom such contract or agreement was entered into, or to whom such obligation was undertaken, to show cause why such declaration shall not be made :

Provided further that this section shall not be construed as preventing any party to the contract, agreement or obligation so revoked from initiating action in a court of law against the previous management.

23. **Continuance in service of the employees.**—(1) Every wholetime employee who was employed by an acquired establishment immediately before the date of acquisition shall, on and from the date of acquisition, become an employee of the Corporation, and shall continue to hold his office on the same terms and conditions as were applicable to him immediately before such acquisition, until his employment in the Corporation is terminated or his terms and conditions of service are altered by the Corporation :

Provided that if a question arises whether a person was a wholetime employee of an establishment or not, the decision of the Corporation shall be final.

(2) Where any employee of the acquired establishment has under the provisions of sub-section (1) become the employee of the Corporation, the Corporation may alter the terms and conditions of service of such employee as it thinks fit, and, if the alteration is not acceptable to the employee, the Corporation may terminate his employment by giving him compensation equivalent to his remuneration for three months, or, if his contract of service provides for a shorter notice for termination of employment for the period so provided.

Explanation.—The compensation payable to an employee under sub-section (2) shall be in addition to, and not in derogation of, any of his rights as to pension, gratuity, provident fund money or other benefit to which he may be entitled under his contract of service.

(3) The Corporation may, in its discretion, transfer an employee from an acquired establishment to any other such establishment under its control or to any office of the Corporation.

(4) The transfer of the services of an employee of an establishment to the Corporation shall not, except as provided in this section, entitle any such employee to any compensation, and no such claim shall be entertained by any court, tribunal or other authority.

24. **General effect of vesting of establishment.**—(1) Where the management of an acquired establishment has been transferred to the Corporation under section 6, all contracts, agreements and other instruments of whatever nature subsisting or having effect immediately before the date of the transfer, to which an acquired establishment was a party or which were in respect of such establishment, shall, subject to the provisions of section 22, be of as full force and effect against or in favour of the Corporation, and may be enforced or acted upon as fully and effectively as if, instead of the establishment, the Corporation had been a party thereto, or as if they had been entered into or issued in respect of the Corporation.

(2) If on the date of the transfer of an acquired establishment to the Corporation any suit, appeal or legal proceeding of whatever nature is pending by or against such establishment, it shall not abate, discontinue or be in any way prejudicially affected by reason of such transfer or anything done under this Act but the suit, appeal or other proceeding may be continued, prosecuted and enforced by or against the Corporation.

25. **Duty to deliver possession of property.**—(1) Every person who has in his possession, custody or control any property of an acquired establishment shall forthwith deliver such property to the Corporation.

(2) Without prejudice to the provisions of sub-section (1), it shall be lawful for the Corporation to take all necessary steps for acquiring possession of all properties which have been vested in it under this Act.

Explanation.—In this section, " property " means property of any kind including books, documents and papers and also includes any right or interest in such property.

26. **Provident, superannuation and other like funds.**—(1) Where an establishment which has been transferred to the Corporation under section 6, has established a provident or superannuation fund or any other like fund for the benefit of its employees, and has constituted a trust in respect thereof, hereinafter referred to as an existing trust, the moneys standing to the credit of any such fund on the appointed date, together with any other assets pertaining to such fund, shall, subject to the provisions of sub-section (2), vest in the Corporation from the date of such transfer.

(2) Where all the employees of any such establishment do not become the employees of the Corporation under section 23, the moneys and other assets belonging to any such fund as is referred to in sub-section (1) shall be apportioned between the persons responsible for the fund and the Corporation in such manner as may be prescribed by rules, and in the case of any dispute regarding such apportionment, the decision of the Federal Government shall be final.

(3) The Corporation shall, as soon as may be after an establishment is transferred to it under section 6, constitute in respect of the moneys and other assets which are vested in it under this section one or more trusts having objects as similar to the objects of the existing trusts as in the circumstances may be practicable.

(4) Where all the moneys and other assets belonging to an existing trust are vested in the Corporation under this section, the person responsible for such trust shall, as from the date of such transfer, be discharged from the trust, except in respect of things done or omitted to be done before the transfer of the establishment.

27. **Bar to jurisdiction.**—(1) No court shall call in question or permit to be called in question any provision of this Act, or of any rule or order made, or anything done or any action taken thereunder.

(2) No court shall grant any injunction, or make any order, nor shall any court entertain any proceedings in relation to anything done or intended to be done under this Act.

28. **Indemnity.**—No suit, prosecution or other legal proceedings shall lie against the Federal Government, the Corporation, a Manager or any other person for anything in good faith done or intended to be done under this Act or any rule or order made thereunder.

29. **Penalties.**—Whoever—

(1) obstructs or resists or hinders any person in the discharge of his duties under this Act ; or

(2) destroys, tampers with, alters or defaces any property or document belonging, or pertaining, to an acquired establishment ; or

(3) refuses or fails to deliver possession of any property or document belonging or pertaining to an acquired establishment ; or

(4) contravenes any of the provisions of section 3, section 19 or section 25 of the Act, shall be punishable with rigorous imprisonment for a term which may extend to three years, or with fine, or with both :

Provided that no Court shall take cognisance of an offence under this Act unless a complaint in this behalf is made by the Corporation.

30. **Change of name of an acquired establishment.**—The Federal Government may, by notification in the official Gazette, specify a new name by which an acquired establishment shall be known from such date as may be specified in the notification.

31. **Composite enterprises and organisations.**—Where an acquired establishment is engaged in a business not directly related to the industry, the Federal Government may take such action for the bifurcation of such business from business directly related to the industry as it may deem fit ; and the decision of the Federal Government as to such bifurcation shall be final.

32. **Power to make rules.**—(1) The Federal Government may make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for, or empower the Corporation to make orders providing for all or any of the following matters, namely :—

(a) ensuring the safety of the properties of an acquired establishment ;

(b) ensuring the due performance of their duties by the persons connected with an acquired establishment ;

(c) prohibiting anything likely to interfere with the proper functioning of an acquired establishment ;

(d) the administration, management and disposal, by way of transfer or otherwise, of any property relating to or held or managed by or on behalf of an acquired establishment ;

(e) prohibiting the departure from any area of any person connected with the administration, control or functions of an acquired establishment, save with the leave of the Manager, or any other person authorised in this behalf by the Federal Government or the Corporation ;

(f) the taking over or control of any business, trade, industry, firm or company which in the opinion of the Federal Government is a subsidiary of the acquired establishment ;

(g) the requisitioning of any property, movable or immovable belonging to an acquired establishment ;

(h) the requisitioning of any property, movable or immovable, the requisition of which is, in the opinion of the Federal Government, required for the proper functioning of an acquired establishment ;

(i) preventing the entry of any person into any place, yard, factory, mill, shop, or office used for the purpose of an acquired establishment, or of any of its subsidiaries ;

(j) the taking of any steps for collecting, controlling and disposing of the assets, movable or immovable, of an acquired establishment ;

(k) preparation and audit of accounts of the Corporation and of the acquired establishments and matters ancillary thereto ; and

(l) control of the Federal Government over the accounts of the Corporation and of the acquired establishments.

33. **Removal of difficulties.**—If any difficulty arises in giving effect to any provision of this Act, the Federal Government may make such order, not inconsistent with the provisions of this Act, as may appear to it to be necessary for the purpose of removing the difficulty :

Provided that no such power shall be exercised after the expiry of one year from the commencement of this Act.

34. **Repeal.**—The Rice Milling Control and Development Ordinance, 1976 (XXV of 1976), is hereby repealed.

THE SCHEDULE

(*See* section 17)

Principles and the manner for payment of compensation in respect of the shares or proprietary interests of an establishment acquired by the Federal Government.

1. The value of the compensation for the shares of establishments acquired by the Federal Government shall be assessed—

(a) in the case of the shares not quoted on any of the stock exchanges, at the Break-up Value, and

(b) in the case of the shares quoted on any of the stock exchanges, at the Break-up Value or the Market Value, whichever is more, provided that the Market Value will be taken into account only if the shares have been traded on the stock exchange for at least three years, and not less than 30% of the shares have been traded during the three years preceding the date of the acquisition of the shares.

2. Where the proprietary interests in such an establishment are acquired by the Federal Government, the value of the compensation for the interests so acquired shall be assessed at the Net Worth of the proprietary interests of such establishments.

3. The compensation payable in accordance with the principles indicated above shall be paid by the Federal Government in cash or in the form of Government Bonds redeemable at any time at the option of the Federal Government within a period of fifteen years, and carrying, with effect from the date of acquisition, a rate of interest one per cent above the bank rate as notified by the State Bank of Pakistan from time to time. In the case of persons holding shares of a total value less than Rs. 5,000, the Bonds will be redeemable within a period of two years. The Bonds shall be negotiable and shall be eligible as security for advances.

4. **Definitions.**—In this Schedule,—

(a) " Break-up Value " shall mean the value of the shares of a company as determined by the Auditors appointed by the Federal Government on the basis of the Balance Sheet of the company, drawn up as on the date of acquisition, to be prepared and verified by such auditors in accordance with clause (c) of sub-rule (2) of rule 8 of the Wealth-tax Rules ;

(b) " Market Value " shall mean the average value of the shares of a company as quoted on the stock exchange nearest to the Head Office of the company on closing on all working days within three years of the date of order of acquisition of such shares under this Act ;

(c) " Net Worth Value " shall mean the value of the proprietary interests of a company of other person in an establishment which are acquired under this Act, as determined by the auditors appointed by the Federal Government, on the basis of the Balance Sheet of such establishment, drawn up as on the date of acquisition, to be prepared and verified by such auditors. The Net Worth Value shall be determined by valuing the Fixed Tangible Assets appearing in the Balance Sheet at their written down values, and valuing the Current Assets, *e.g.* stores, inventory, work in progress, advances and prepayments, cash and bank balnces, at their cost or market value, whichever is lower. From the sum total of the Fixed and the Current Assets so valued as aforesaid, all the outstanding liabilities appearing in the Balance Sheet shall be deducted, thereby arriving at the Net Worth Value of the proprietary interests in such establishment.

ACT No. LIX OF 1976

An Act to regulate the operation and development of cotton ginnig

WHEREAS it is expedient to make provision to regulate the operation and development of cotton ginning and to provide for matters connected therewith or incidental thereto ;

AND WHEREAS paragraph (b) of clause (1) of Article 253 of the Constitution provides that Parliament may by law declare that any trade, business, industry or service specified in such law shall be carried on or owned, to the exclusion, complete or partial, of other persons, by the Federal Government or a Provincial Government or by a corporation controlled by any such Government ;

It is hereby enacted as follows :—

1. **Short title, extent and commencement.**—(1) This Act may be called the Cotton Ginning Control and Development Act, 1976.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. **Definitions.**—In this Act, unless there is anything repugnant in the subject or context,—

(a) " acquired establishment " means an establishment in respect of which an order has been made under section 5 ;

(b) " bank rate " means the bank rate determined and made public under the provisions of the State Bank of Pakistan Act, 1956 (XXXIII of 1956) ;

(c) " Corporation " means the Cotton Trading Corporation of Pakistan ;

(d) " creditor " means any person to whom an acquired establishment owes any amount of money ;

(e) " debtor " means a person who owes any amount of money to an acquired establishment ;

(f) " establishment " means any company, firm, concern, institution or enterprise the whole or any part of the undertaking of which pertains to the industry, and includes the business related to the industry, and any office, shop, building, factory, land, godown, yard, stocks, stores, vehicles and assets in any form, so related, wherever they may be ;

Explanation.—The Federal Government shall decide whether the business is related or not to the industry and the decision of the Federal Government shall be final ;

(g) " foreign investor " means a person, other than a citizen of Pakistan, who has made investment in Pakistan and to whom—

(i) the Federal Government has given an assurance that he will have the right to repatriate from Pakistan the amount of his investment or the income arising therefrom or both such amount and such income ; or

(ii) the Federal Government has not given such assurance but whom it has assured that, in the event of compulsory acquisition of the shares held in an establishment by the shareholders, he will not be treated less favourably than an investor to whom such assurance had been given ;

(h) "industry" means the cotton ginning industry, composed of one or more cotton ginning factories ;

(i) "Manager" in relation to an establishment means the Manager appointed under section 7 ;

(j) "person" includes an individual, a Hindu undivided family, a partnership firm and an association of persons or a body of individuals, Government of a Province and a local authority ;

(k) "previous management" in relation to an establishment means the person, board of directors or other body or authority in whom or in which the management of the establishment vested immediately before an order has been made under section 5 in respect thereof ;

(l) "shareholder" means a shareholder in the share capital of an establishment and includes a stockholder ; and

(m) words and expressions used but not defined in this Act shall have the same meaning as in the Companies Act, 1913 (VII of 1913).

3. **Declaration.**—It is hereby declared that the industry shall be carried on and owned by the Federal Government, or a Corporation controlled by the Federal Government, to the exclusion of all other persons, except a foreign investor.

4. **Act to override other laws.**—The provisions of this Act shall have effect notwithstanding anything contained in the Companies Act, 1913 (VII of 1913), or the Companies (Managing Agency and Election of Directors) Order, 1972 (P.O. No. 2 of 1972), or any other law for the time being in force, or any agreement, contract, memorandum or articles of association of a company.

5. **Power to acquire ownership and management.**—(1) The Federal Government may, by an order published in the official Gazette, acquire the ownership and management of any establishment.

(2) As from the date of such order,—

(a) the previous management shall stand divested of such management ;

(b) in the case of an establishment which is a company or an establishment owned by a company, the shares of the company or the proprietary interest of the company in the establishment shall, in the discretion of the Federal Government, vest in that Government ;

(c) in the case of an establishment owned by a person, the proprietary interest of such person shall vest in the Federal Government :

Provided that nothing in sub-section (2) shall apply to the shares, or the proprietary interest, held by a foreign investor.

6. **Transfer of ownership and management.**—The Federal Government may, by notification in the official Gazette, transfer the ownership and management of an acquired establishment to the Corporation.

7. **Appointment of Managers.**—(1) Where the Federal Government has made an order under section 6 in respect of an establishment, the Corporation may appoint a Manager in respect of such establishment.

(2) Upon the appointment of a Manager in respect of an acquired establishment, the administration and management of the affairs of such establishment shall vest in the Manager, subject to such directions as the Corporation may give from time to time in this behalf.

(3) The Manager shall hold office during the pleasure of the Corporation on such terms and conditions as may be specified by the Corporation.

8. **Regulations.**—The Corporation may, with the prior approval in writing of the Federal Government, make such regulations as appear to it to be necessary for carrying out the purposes of this Act.

9. **Delegation of powers, etc.**—(1) The Federal Government may, by notification in the official Gazette, direct that all or any of its powers under this Act shall, in such circumstances and subject to such conditions as may be specified in the notification, be exercisable also by the Corporation or any other person.

(2) The Federal Government may from time to time issue such directions to, and call for such information or reports from, the Corporation as the Federal Government may deem expedient.

10. **Compensation.**—Where the Federal Government acquires the shares and proprietary interests of an establishment under section 5, there shall be paid compensation the amount of which shall be determined and paid by the Federal Government on the basis of the principles set out in the Schedule.

11. **Reorganisation.**—Where the shares of a company are owned wholly by the Corporation, the assets and liabilities of such company may, with the prior approval in writing of the Federal Government, be acquired by the Corporation, whereafter the company shall stand wound up.

12. **Prohibition to obstruct.**—No person shall, unless so authorised by the Federal Government, or the Corporation, give any instruction to the Manager, nor shall any person in any manner obstruct him in the discharge of his duties or the performance of his functions.

13. **Debtor.**—(1) The Corporation may, by notice in writing, call upon a debtor to pay to the Corporation or to the acquired establishment specified in such notice, the amount of money due from him to the establishment, within a period of thirty days commencing from the date of receipt of such notice by the debtor.

(2) Where the debtor fails to pay the amount due from him within the period specified in the notice under sub-section (1), the Corporation shall have the same power of affecting recovery as the Industrial Development Bank of Pakistan has under sections 39, 40 and 41 of the Industrial Development Bank of Pakistan Ordinance, 1961 (XXXI of 1961).

14. **Creditor.**—(1) A creditor of an acquired establishment may apply to the Corporation for payment of the amount due to him from the establishment.

(2) The Corporation may, on receipt of an application under sub-section (1) and after such enquiry as it may deem fit, either reject such application or, if

satisfied, direct the acquired establishment to pay the amount due to the creditor in such instalments and within such period as may be specified in the directions.

15. **Power to revoke contract, etc.**—If any contract or agreement entered into, or any obligation undertaken, by any previous management of an acquired establishment is declared by the Federal Government to be against the interest of the establishment, such contract, agreement or obligation shall stand revoked and the establishment shall not be liable for any loss or damage suffered by the previous management by reason of such revocation :

Provided that a declaration under this section shall be made after such enquiry as the Federal Government may deem fit and after giving an opportunity to the person or persons with whom such contract or agreement was entered into, or to whom such obligation was undertaken, to show cause why such declaration shall not be made :

Provided further that this section shall not be construed as preventing any party to the contract, agreement or obligation so revoked from initiating action in a court of law against the previous management.

16. **Continuance in service of the employees.**—(1) Every wholetime employee who was employed by an acquired establishment immediately before the date of acquisition shall, on and from the date of such acquisition, become an employee of the Corporation, and shall continue to hold his office on the same terms and conditions as were applicable to him immediately before such acquisition, until his employment in the Corporation is terminated or his terms and conditions of service are altered by the Corporation :

Provided that, if a question arises whether a person was a wholetime employee of an establishment or not, the decision of the Corporation shall be final.

(2) Where any employee of the acquired establishment has under the provisions of sub-section (1) become an employee of the Corporation, the Corporation may alter the terms and conditions of service of such employee as it thinks fit, and, if the alteration is not acceptable to the employee, the Corporation may terminate his employment by giving him compensation equivalent to his remuneration for three months, or, if his contract of service provides for a shorter notice for termination of employment, for the period so provided.

Explanation.—The compensation payable to an employee under sub-section (2) shall be in addition to, and not in derogation of, any of his rights as to pension, gratuity, provident fund money or other benefit to which he may be entitled under his contract of service.

(3) The Corporation may in its discretion transfer an employee from an acquired establishment to any other such establishment under its control or to any office of the Corporation.

(4) The transfer of the services of an employee of an establishment to the Corporation shall not, except as provided in this section, entitle any such employee to any compensation, and no such claim shall be entertained by any court, tribunal or other authority.

17. **General effect of vesting of establishment.**—(1) All contracts, agreements and other instruments of whatever nature subsisting or having effect immediately before the date of the acquisition, to which any acquired establishment was a

party or which were in respect of such establishment, shall, subject to the provisions of section 15, be of as full force and effect against or in favour of the Corporation, and may be enforced or acted upon as fully and effectively as if, instead of the establishment, the Corporation had been a party thereto, or as if they had been entered into or issued in respect of the Corporation.

(2) If on the date of the acquisition of the management of an establishment, any suit, appeal or legal proceeding of whatever nature is pending by or against such establishment, it shall not abate, discontinue or be in any way prejudicially affected by reason of such acquisition or anything done under this Act, but the suit, appeal or other proceeding may be continued, prosecuted and enforced by or against the Corporation.

18. **Duty to deliver possession of property.**—(1) Every person who has in his possession, custody or control any property of an acquired establishment shall forthwith deliver the property to the Corporation.

(2) Without prejudice to the provisions of sub-section (1), it shall be lawful for the Corporation to take all necessary steps for acquiring possession of all properties which have been transferred to, and vested in, it under this Act.

Explanation.—In this section, " property " means property of any kind including books, documents and papers and also includes any right or interest in such property.

19. **Provident, superannuation and other like funds.**—(1) Where an establishment, which has been transferred to the Corporation under section 6, has established a provident or superannuation fund or any other like fund for the benefit of its employees, and has constituted a trust in respect thereof, hereinafter referred to as an existing trust, the moneys standing to the credit of any such fund on the appointed date, together with any other assets pertaining to such fund, shall, subject to the provisions of sub-section (2), vest in the Corporation from the date of such transfer.

(2) Where all the employees of any such establishment do not become the employees of the Corporation under section 16, the moneys and other assets belonging to any such fund as is referred to in sub-section (1) shall be apportioned between the persons responsible for the fund and the Corporation in such manner as may be prescribed by rules, and in the case of any dispute regarding such apportionment, the decision of the Federal Government shall be final.

(3) The Corporation shall, as soon as may be after an establishment is transferred to it under section 6, constitute in respect of the moneys and other assets which are vested in it under this section, one or more trusts having objects as similar to the objects of the existing trusts as in the circumstance may be practicable.

(4) Where all the moneys and other assets belonging to an existing trust are vested in the Corporation under this section, the person responsible for such trust shall, as from the date of such transfer, be discharged from the trust, except in respect of things done or omitted to be done before the date of the transfer of the establishment.

20. **Bar of jurisdiction.**—(1) No court shall call in question or permit to be called in question any provision of this Act, or of any rule or order made, or anything done or any action taken thereunder.

(2) No court shall grant any injunction or make any order, nor shall any court entertain any proceedings, in relation to anything done or intended to be done under this Act.

21. **Indemnity.**—No suit, prosecution or other legal proceedings shall lie against the Federal Government, the Corporation, a Manager or any other person for anything in good faith done or intended to be done under this Act or any rule or order made thereunder.

22. **Assistance to the Corporation.**—The Federal Government, or a Provincial Government, shall provide such assistance as may be needed by the Corporation for carrying out the purposes of this Act.

23. **Penalties.**—Whoever—

(1) obstructs or resists or hinders any person in the discharge of his duties under this Act; or

(2) destroys, tampers with, alters or defaces any property or document belonging, or pertaining, to an acquired establishment; or

(3) refuses or fails to deliver possession of any property or document belonging or pertaining to an acquired establishment; or

(4) contravenes any of the provisions of section 3, section 12 or section 18 shall be punishable with rigorous imprisonment for a term which may extend to three years, or with fine or with both:

Provided that no court shall take cognisance of an offence under this Act unless a complaint in this behalf is made by the Corporation.

24. **Change of name of an acquired establishment.**—The Federal Government may, by notification in the official Gazette, specify a new name by which an acquired establishment shall be known from such date as may be specified in the notification.

25. **Composite enterprises and organisations.**—When an acquired establishment is engaged in a business not directly related to the industry, the Federal Government may take such action for the bifurcation of such business from business directly related to the industry as it may deem fit; and the decision of the Federal Government as to such bifurcation shall be final.

26. **Power to make rules.**—(1) The Federal Government may make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of foregoing powers, such rules may provide for, or may empower the Corporation to make orders providing for all or any of the following matters, namely:—

(a) ensuring the safety of the properties of an acquired establishment;

(b) ensuring the due performance of their duties by the persons connected with an acquired establishment;

(c) prohibiting anything likely to interfere with the proper functioning of an acquired establishment;

(d) the administration, management and disposal, by way of transfer or otherwise, of any property relating to or held or managed by or on behalf of an acquired establishment;

(e) prohibiting the departure from any area of any person connected with the administration, control or functioning of an acquired establishment save with the leave of the Manager or any other person authorised in this behalf by the Corporation;

(f) the acquisition or control of any business, trade, industry, firm or company which in the opinion of the Federal Government is a subsidiary of the acquired establishment;

(g) the requisitioning of any property, movable or immovable, belonging to an acquired establishment ;

(h) the requisitioning of any property, movable or immovable, the requisitioning of which is, in the opinion of the Federal Government, required for the proper functioning of an acquired establishment ;

(i) preventing the entry of any person into any place, yard, factory, mill, shop, or office used for the purpose of an acquired establishment, or of any of its subsidiaries ;

(j) the taking of any steps for collecting, controlling and disposing of the assets, movable or immovable, of any acquired establishment ;

(k) preparation and audit of accounts of the Corporation and of the acquired establishments, and matters ancillary thereto ; and

(l) control of the Federal Government over the accounts of the Corporation and of the acquired establishments.

27. **Removal of difficulties.**—If any difficulty arises in giving effect to any provision of this Act the Federal Government may make such order, not inconsistent with the provisions of this Act, as may appear to it to be necessary for the purpose of removing the difficulty :

Provided that no such power shall be exercised after the expiry of one year from the commencement of this Act.

28. **Repeal.**—The Cotton Ginning Control and Development Ordinance, 1976 (XXVI of 1976), is hereby repealed.

THE SCHEDULE

(*See* section 10)

Principles and the manner for payment of compensation in respect of the shares or proprietary interests of an establishment acquired by the Federal Government.

1. The value of the compensation for the shares of establishments acquired by the Federal Government shall be assessed—

(a) in the case of the shares not quoted on any of the stock exchanges, at the Break-up Value, and

(b) in the case of the shares quoted on any of the stock exchanges, at the Break-up Value or the Market Value, whichever is more, provided that the Market Value will be taken into account only if the shares have been traded on the stock exchange for at least three years, and not less than 30% of the shares have been traded during the three years preceding the date of the acquisition of the shares.

2. Where the proprietary interests in such an establishment are acquired by the Federal Government, the value of the compensation for the interests so acquired shall be assessed at the Net Worth of the proprietary interests of such establishments.

3. The compensation payable in accordance with the principles indicated above shall be paid by the Federal Government in cash or in the form of Government Bonds redeemable at any time at the option of the Federal Government within a period of fifteen years, and carrying, with effect from the date of acquisition, a rate of interest one per cent above the bank rate as notified by the State Bank of Pakistan from time to time. In the case of persons holding shares

of a total value less than Rs. 5,000, the Bonds will be redeemable within a period of twoyears. The Bonds shall be negotiable and shall be eligible as security for advances.

4. **Definitions.**—In this Schedule,—

(a) "Break-up Value" shall mean the value of the shares of a company as determined by the Auditors appointed by the Federal Government on the basis of the Balance Sheet of the company, drawn up as on the date of acquisition, to be prepared and verified by such auditors in accordance with clause (c) of sub-rule (2) of rule 8 of the Wealth-tax Rules ;

(b) "Market Value" shall mean the average value of the shares of a company as quoted on the stock exchange nearest to the Head Office of the company on closing on all working days within three years of the date of order of acquisition of such shares under this Act ;

(c) "Net Worth Value" shall mean the value of the proprietary interests of a company or other person in an establishment which are acquired under this Act, as determined by the auditors appointed by the Federal Government, on the basis of the Balance Sheet of such establishment, drawn up as on the date of acquisition, to be prepared and verified by such auditors. The Net Worth Value shall be determined by valuing the Fixed Tangible Assets appearing in the Balance Sheet at their written down values, and valuing the Current Assets, *e.g.* stores, inventory, work in progress, advances and prepayments, cash and bank balances, at their cost or market value whichever is lower. From the sum total of the Fixed and the Current Assets so valued as aforesaid, all the outstanding liabilities appearing in the Balance Sheet shall be deducted, thereby arriving at the Net Worth Value of the proprietary interests in such establishment.

M. A. HAQ,
Secretary.

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ISLAMABAD, TUESDAY, SEPTEMBER 7, 1976

PART I

Acts, Ordinances, President's Orders and Regulations

NATIONAL ASSEMBLY SECRETARIAT

Islamabad, the 7th September, 1976

The following Act of Parliament received the assent of the President on the 2nd September, 1976, and is hereby published for general information :—

ACT No. LX OF 1976

An Act to amend the University of Islamabad Act, 1973

WHEREAS it is expedient to amend the University of Islamabad Act, 1973 (XXVIII of 1973), for the purposes hereinafter appearing ;

It is hereby enacted as follows :—

1. **Short title and commencement.**—(1) This Act may be called the University of Islamabad (Amendment) Act, 1976.

(2) It shall come into force at once.

2. **Amendment of section 1, Act XXVIII of 1973.**—In the University of Islamabad Act, 1973 (XXVIII of 1973), hereinafter referred to as the said Act, in section 1, in sub-section (1), for the words, comma and figure "University of Islamabad Act, 1973" the words, comma and figure "Quaid-e-Azam University Act, 1973" shall be substituted.

3. **Amendment of section 2, Act XXVIII of 1973.**—In the said Act, in section 2,—

(a) after clause (m), the following new clause shall be inserted, namely :—

"(mm) 'Pro-Vice-Chancellor' means the Pro-Vice-Chancellor of the University ;" ; and

Price : Ps. 19

[3156 Ex. Gaz.]

(b) for clause (u) the following shall be substituted, namely :—

"(u) 'University' means the Quaid-e-Azam University as renamed under this Act ; ".

4. **Amendment of section 3, Act XXVIII of 1973.**—In the said Act, in section 3,—

(a) for sub-section (1) the following shall be substituted, namely :—

"(1) The University of Islamabad as reconstituted in accordance with the provisions of this Act and having its principal seat at Islamabad shall, on and from the commencement of the University of Islamabad (Amendment) Act, 1976, be renamed as 'the Quaid-e-Azam University'. " ;

(b) in sub-section (2), in clause (i), after the words and comma "the Vice-Chancellor,", the words and comma "the Pro-Vice-Chancellor," shall be inserted ; and

(c) in sub-section (3), for the words "University of Islamabad" the words "Quaid-e-Azam University" shall be substituted.

5. **Amendment of section 7, Act XXVIII of 1973.**—In the said Act, in section 7, for the words "Islamabad University Students' Union", twice occurring, the words "Quaid-e-Azam University Students' Union" shall be substituted.

6. **Amendment of section 8, Act XXVIII of 1973.**—In the said Act, in section 8, after clause (iii), the following new clause shall be inserted, namely :—

"(iiia) the Pro-Vice-Chancellor ; ".

7. **Insertion of new section 13A, Act XXVIII of 1973.**—In the said Act, after section 13, the following new section shall be inserted, namely :—

"13A. *Pro-Vice-Chancellor.*—(1) The Pro-Vice-Chancellor shall be appointed by the Chancellor in consultation with the Vice-Chancellor from amongst the Professors of the University and shall hold office during the pleasure of the Chancellor for a term not exceeding four years.

(2) The Pro-Vice-Chancellor shall be paid such special pay as the Chancellor may determine.

(3) In addition to his duties as Professor, the Pro-Vice-Chancellor shall exercise and perform such of the administrative and financial powers and functions of the Vice-Chancellor as the Pro-Chancellor may assign to him.".

8. **Amendment of section 19, Act XXVIII of 1973.**—In the said Act, in section 19, in sub-section (1), after clause (iii), the following new clause shall be inserted, namely :—

"(iiia) the Pro-Vice-Chancellor ; ".

9. **Amendment of section 21, Act XXVIII of 1973.**—In the said Act, in section 21, in sub-section (1),—

(a) after clause (i), the following new clause shall be inserted, namely :—
"(ia) the Pro-Vice-Chancellor ;" ; and

(b) in clause (xi), for the words "Islamabad University Students' Union" the words "Quaid-e-Azam University Students' Union" shall be substituted.

10. **Amendment of section 22, Act XXVIII of 1973.**—In the said Act, in section 22, in sub-section (2), in clause (r), after the word "Vice-Chancellor", the comma and words ", Pro-Vice-Chancellor" shall be inserted.

11. **Amendment of section 23, Act XXVIII of 1973.**—In the said Act, in section 23, in sub-section (1), after clause (i), the following new clause shall be inserted, namely :—

"(ia) the Pro-Vice-Chancellor ;".

12. **Amendment of Schedule, Act XXVIII of 1973.**—In the said Act, in the Schedule—

(a) in statute 8, after clause (i), the following new clause shall be inserted, namely :—

"(ia) the Pro-Vice-Chancellor ;" and

(b) in statute 10, in clause (v), for the word "Islamabad", the word "Quaid-e-Azam" shall be substituted.

M. A. HAQ,
Secretary.

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ISLAMABAD, MONDAY, SEPTEMBER 13, 1976

PART I

Acts, Ordinances, President's Orders and Regulations

NATIONAL ASSEMBLY SECRETARIAT

Islamabad, the 13th September, 1976

The following Act of Parliament received the assent of the President on the 7th September, 1976, and is hereby published for general information :—

ACT No. LXI OF 1976

An Act further to amend the Defence of Pakistan Ordinance, 1971

WHEREAS it is expedient further to amend the Defence of Pakistan Ordinance, 1971 (XXX of 1971), for the purposes hereinafter appearing ;

AND WHEREAS the Proclamation of Emergency referred to in Article 280 of the Constitution of the Islamic Republic of Pakistan is in force ;

It is hereby enacted as follows :—

1. **Short title, extent and commencement.**—(1) This Act may be called the Defence of Pakistan (Third Amendment) Act, 1976.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. **Amendment of section 10, Ordinance XXX of 1971.**—In the Defence of Pakistan Ordinance, 1971 (XXX of 1971), hereinafter referred to as the said Ordinance, in section 10, for sub-section (1) the following shall be substituted and shall be deemed always to have been so substituted, namely :—

"(1) Notwithstanding the provisions of the Code, a Special Tribunal may take cognizance of an offence on a report in writing of the facts constituting such offence made by a public servant.".

Price : Ps. 9

[3187 Ex. Gaz.]

3. **Substitution of section 13, Ordinance XXX of 1971.**—In the Defence of Pakistan Ordinance, 1971 (XXX of 1971), for section 13 the following shall be substituted, namely :—

> "13. *Appeals, etc.*—(1) A person sentenced by a Special Tribunal after the fourteenth day of August, 1974, shall have a right of appeal to the High Court within a period of thirty days from the commencement of the Defence of Pakistan (Second Amendment) Ordinance, 1976, or the day on which the sentence is passed, whichever is the later.
>
> *Explanation.*—In this section, "High Court" means the High Court within whose jurisdiction the sentence has been or is passed.
>
> (2) Chapter XXIX of the Code shall apply to the suspension, remission and commutation of sentences passed by a Special Tribunal, so, however, that the powers exercisable by the Provincial Government under that Chapter shall be exercised by the Federal Government.
>
> 13-A. *Bar of jurisdiction.*—(1) Save as provided in section 13 and notwithstanding the provisions of the Code, or of any other law for the time being in force, or of anything having the force of law by whatever authority made or done, or any judgement of any Court, there shall be no appeal from any order of a Special Tribunal, and no Court shall have authority to revise any order or sentence of the Special Tribunal, or to transfer any case from a Special Tribunal, or to order the suspension of execution of sentence or release on bail or on own bond under section 426, 435, 439, 491, 497, 498 or 561-A of the Code or any other provision of law, of any person against whom a case exclusively triable by a Special Tribunal is registered at a police station, or who is being tried, or has been convicted, by a Special Tribunal, or have any jurisdiction of any kind in respect of any proceedings of a Special Tribunal.
>
> *Explanation.*—'Proceedings' includes all final or interim orders passed by the Special Tribunal in relation to a case exclusively triable by it, whether before or after the Special Tribunal has taken cognizance.
>
> (2) Notwithstanding the provisions of the Code or of any other law for the time being in force, or of anything having the force of law by whatever authority made or done, or any judgement of any Court, the provisions of sub-section (1) shall have effect, and shall be deemed always to have had effect, as if they formed part of this Ordinance on and from the twenty-third day of November, 1971.".

4. **Repeal.**—The Defence of Pakistan (Second Amendment) Ordinance, 1976 (XXIII of 1976). and the Defence of Pakistan (Third Amendment) Ordinance, 1976 (XXIX of 1976), are hereby repealed.

M. A. HAQ,
Secretary.

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ISLAMABAD, WEDNESDAY, SEPTEMBER 15, 1976

PART I

Acts, Ordinances, President's Orders and Regulations

NATIONAL ASSEMBLY SECRETARIAT

Islamabad, the 15th September, 1976

The following Act of Parliament received the assent of the President on the 13th September, 1976, and is hereby published for general information :—

ACT No. LXII OF 1976

An Act further to amend the Constitution of the Islamic Republic of Pakistan

WHEREAS it is expedient further to amend the Constitution of the Islamic Republic of Pakistan for the purposes hereinafter appearing;

It is hereby enacted as follows :—

1. **Short title and commencement.**—(1) This Act may be called the Constitution (Fifth Amendment) Act, 1976.

(2) It shall come into force at once, except section 8 and section 13, which shall come into force on the first day of December, 1976.

2. **Amendment of Article 101 of the Constitution.**—In the Constitution of the Islamic Republic of Pakistan, hereinafter referred to as the Constitution, in Article 101, in clause (2), for the full stop at the end a colon shall be substituted and thereafter the following proviso and new clause shall be added, namely :—

> "Provided that, after the holding of the first general election to the National Assembly, a person shall not be appointed to be the Governor of the Province of which he is a permanent resident.
>
> (2A) Nothing contained in the proviso to clause (2) shall apply during the period that an Order under paragraph (c) of clause (2) of Article 232 or a Proclamation under Article 234 is in force.".

Price : Ps. 37

[3207 Ex. Gaz.]

3. **Amendment of Article 160 of the Constitution.**—In the Constitution, in Article 160, in clause (3), for paragraph (ii) the following shall be substituted, namely :—

"(ii) taxes on the sales and purchases of goods imported, exported, produced, manufactured or consumed ;".

4. **Amendment of Article 175 of the Constitution.**—In the Constitution, in Article 175, in clause (3), for the word "three" the word "five" shall be substituted.

5. **Amendment of Article 179 of the Constitution.**—In the Constitution, Article 179 shall be re-numbered as clause (1) of that Article and, after clause (1) re-numbered as aforesaid, the following new clauses shall be added, namely :—

"(2) The Chief Justice of the Supreme Court, whether appointed before or after the commencement of the Constitution (Fifth Amendment) Act, 1976, shall, unless he sooner attains the age of sixty-five years, hold office for a term of five years and shall thereafter have the option either—

(a) to retire from his office and receive the pension to which he would have been entitled if he had retired from office on attaining the age of sixty-five years ; or

(b) to assume the office of the most senior of the other Judges of the Supreme Court and to continue to receive the same salary which he was receiving while holding the office of Chief Justice.

(3) When a Judge assumes the office of the most senior of the other Judges of the Supreme Court under clause (2), the Judge who was until then the most senior of the other Judges shall rank next after him in order of seniority.

(4) A person who has once held office as Chief Justice of the Supreme Court, otherwise than under Article 180, shall not again be appointed to that office.

(5) The provisions of clauses (2), (3) and (4) shall have effect notwithstanding anything contained in Article 275.".

6. **Amendment of Article 180 of the Constitution.**—In the Constitution, in Article 180, for the words "the most senior of the other Judges of the Supreme Court" the words "one of the Judges of the Supreme Court who have not previously held the office of Chief Justice of Pakistan otherwise than under this Article" shall be substituted.

7. **Amendment of Article 187 of the Constitution.**—In the Constitution, in Article 187, in clause (1), for the word "The" the words, brackets, figures and comma "Subject to clause (2) of Article 175, the" shall be substituted.

8. **Amendment of Article 192 of the Constitution.**—In the Constitution, in Article 192, for clauses (2), (3) and (4) the following shall be substituted, namely :—

"(2) The Sind and Baluchistan High Court shall cease to function as a common High Court for the Provinces of Baluchistan and Sind.

(3) The President shall, by Order, establish a High Court for each of the Provinces of Baluchistan and Sind and may make such provision in the Order for the principal seats of the two High Courts, transfer of the Judges of the common High Court, transfer of cases pending in the common High Court immediately before the establishment of the two High Courts and, generally, for matters consequential or ancillary to the common High Court ceasing to function and the establishment of the two High Courts as he may deem fit. ".

9. **Amendment of Article 195 of the Constitution.**—In the Constitution, Article 195 shall be re-numbered as clause (1) of that Article and, after clause (1) re-numbered as aforesaid, the following new clauses shall be added, namely :—

" (2) The Chief Justice of a High Court, whether appointed before or after the commencement of the Constitution (Fifth Amendment) Act, 1976, shall, unless he sooner attains the age of sixty-two years, hold office for a term of four years and shall thereafter have the option either—

(a) to retire from his office and receive the pension to which he would have been entitled if he had retired from office on attaining the age of sixty-two years ; or

(b) to assume the office of the most senior of the other Judges of the High Court and to continue to receive the same salary which he was receiving while holding the office of Chief Justice.

(3) When a Judge assumes the office of the most senior of the other Judges of a High Court under clause (2), the Judge who was until then the most senior of the other Judges shall rank next after him in order of seniority.

(4) A person who has once held office as Chief Justice of a High Court, otherwise than under Article 196, shall not again be appointed to be the Chief Justice of that High Court.

(5) The provisions of clauses (2), (3) and (4) shall have effect notwithstanding anything contained in Article 275. ".

10. **Amendment of Article 196 of the Constitution.**—In the Constitution, in Article 196, for the words " the most senior of the other Judges of the High Court " the words " one of the Judges of the High Court who have not previously held the office of Chief Justice of the High Court otherwise than under this Article " shall be substituted.

11. **Amendment of Article 199 of the Constitution.**—In the Constitution, in Article 199, for clause (3A) the following shall be substituted, namely :—

" (3A) A High Court shall not make under this Article—

(a) an order prohibiting the making, or suspending the operation, of an order for the detention of any person under any law providing for preventive detention ;

(b) an order for the release on bail of any person detained under any law providing for preventive detention ;

(c) an order for the release on bail, or an order suspending the operation of an order for the custody, of any person against whom a report or complaint has been made before any court or tribunal, or against whom a case has been registered at any police station, in respect of an offence, or who has been convicted by any court or tribunal ;

(d) an order prohibiting the registration of a case at a police station, or the making of a report or complaint before any court or tribunal, in respect of an offence ; or

(e) any other interim order in respect of any person referred to in any of the preceding paragraphs.

(3B) Every such order as is referred to in clause (3A) made at any time after the commencement of the Constitution (Fourth Amendment) Act, 1975, shall cease to have effect and all applications for the making of any such order that may be pending before any High Court shall abate.

(3C) The provisions of clauses (3A) and (3B) shall also apply to the disposal of an application in a petition for leave to appeal, or in an appeal, from an order such as is referred to in the said clause (3A) that may be pending before the Supreme Court immediately before the commencement of the Constitution (Fifth Amendment) Act, 1976.".

12. **Amendment of Article 200 of the Constitution.**—In the Constitution, in Article 200, in clause (1), for the full stop at the end a colon shall be substituted and thereafter the following proviso shall be added, namely :—

"Provided that such consent, or consultation with the Chief Justices of the High Courts, shall not be necessary if such transfer is for a period not exceeding one year at a time.

Explanation.—In this Article, "Judge" does not include a Chief Justice.".

13. **Amendment of Article 204 of the Constitution.**—In the Constitution, in Article 204, for clauses (2) and (3) the following shall be substituted, namely :—

"(2) A Court shall have the power to punish a person for contempt of court in accordance with law.".

14. **Amendment of Article 206 of the Constitution.**—In the Constitution, Article 206 shall be re-numbered as clause (1) of that Article and, after clause (1) re-numbered as aforesaid, the following new clause shall be added, namely :—

"(2) A Judge of a High Court who does not accept appointment as a Judge of the Supreme Court shall be deemed to have retired from his office and, on such retirement, shall be entitled to receive a pension calculated on the basis of the length of his service as Judge and total service, if any, in the service of Pakistan.".

15. **Amendment of Article 212 of the Constitution.**—In the Constitution, in Article 212, in clause (2), after the word "Tribunal" occurring for the third time, the commas and words ", other than an appeal pending before the Supreme Court," shall be inserted and shall be deemed always to have been so inserted.

16. **Amendment of Article 260 of the Constitution.**—In the Constitution, in Article 260, in the definition of "service of Pakistan", after the word and comma "Attorney-General,", the word and comma "Advocate-General," shall be inserted.

17. **Amendment of Article 280 of the Constitution.**—In the Constitution, in Article 280, after the word "made" at the end, the words and figures "and

shall not be called in question in any court on the ground of inconsistency with any of the rights conferred by Chapter I of Part II" shall be added and shall be deemed always to have been so added.

18. **Amendment of the First Schedule to the Constitution.**—In the Constitution, in the First Schedule, in Part I,—

(a) under the sub-heading 'II REGULATIONS', after entry 6, the following new entry shall be added, namely :—

'7. The Settlement of Disputes of Immovable Property (Chitral) (Amendment) Regulation, 1976 (XII of 1976).';

(b) under the sub-heading 'III FEDERAL ACTS', after entry 2, the following new entries shall be added, namely :—

'3. The Flour Milling Control and Development Act, 1976 (LVII of 1976).

4. The Rice Milling Control and Development Act, 1976 (LVIII of 1976).

5. The Cotton Ginning Control and Development Act, 1976 (LIX of 1976).'; and

(c) after the sub-heading 'V PROVINCIAL ACTS' and the entries relating thereto, the following new sub-heading and entry shall be added, namely :—

'VI. PROVINCIAL ORDINANCE

The Land Reforms (Pat Feeder Canal) (Amendment) Ordinance, 1976.'

19. **Amendment of the Fourth Schedule to the Constitution.**—In the Constitution, in the Fourth Schedule,—

(a) in the Federal Legislative List,—

(i) in Part I, for entry 49 the following shall be substituted, namely :—

"49. Taxes on the sales and purchases of goods imported, exported, produced, manufactured or consumed."; and

(ii) in Part II, in entry 3, for the words "West Pakistan Water and Power Development Authority and the West Pakistan Industrial Development Corporation" the words "Pakistan Water and Power Development Authority and the Pakistan Industrial Development Corporation" shall be substituted; and

(b) in the Concurrent Legislative List, for entry 41 the following shall be substituted, namely :—

"41. Production, censorship and exhibition of cinematograph films.".

M. A. HAQ,
Secretary.

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 15th September, 1976

No. F. 24 (1)|76-Pub.—The following Ordinance made by the President on the 15th September 1976 is hereby published for general information : —

ORDINANCE No. XXXII OF 1976

AN

ORDINANCE

to provide for vesting in the Federal Government of certain undertakings of Esso Eastern Inc. in Pakistan

WHEREAS it is expedient to provide for vesting in the Federal Government of certain undertakings of Esso Eastern Inc. in Pakistan and for matters connected therewith or ancillary thereto ;

AND WHEREAS Esso Eastern Inc., a foreign company, has approched the Federal Government for vesting of certain of its undertakings in Pakistan in the Federal Government ;

AND WHEREAS the scope of such vesting and the amount and manner of the payment to be made to Esso Eastern Inc. for such undertakings has been agreed upon between the Federal Government and Esso Eastern Inc. ;

AND WHEREAS the National Assembly is not in session and the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President is pleased to make and promulgate the following Ordinance :

1. **Short title, extent and commencement.**—(1) This Ordinance may be called the Esso Undertakings (Vesting) Ordinance, 1976.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. **Definitions.**—In this Ordinance, unless there is anything repugnant in the subject or context,—

(a) " commencing day " means the day on which this Ordinance comes into force ;

(b) " Government company " means a company directly or indirectly owned or controlled by the Federal Government in which the Esso undertakings are vested by notification under sub-section (1) of section 5 ;

(c) " Esso " means Esso Eastern Inc., incorporated under the laws of the State of Delaware in the United States of America, having its principal office at 2401 South Gessner, City of Houston, State of Texas, in the United States of America, and having a branch in Pakistan ;

(d) "Esso undertakings" means the business in Pakistan of Esso of purchasing, storing, distributing, blending, marketing and selling of refined petroleum products, of lubricants and of chemical products, and includes—

(i) all assets, rights, powers, authorities and privileges and all property, movable and immovable, book-debts, cash balances, reserves, provisions and investments pertaining to such business, and all other rights and interests in or arising out of such property, in Pakistan, as were, immediately before the commencing day, in the ownership, possession, power or control of Esso ;

(ii) all books of accounts, registers, records and all other documents of whatever nature pertaining to such business in Pakistan, as were, immediately before the commencing day, in the possession, power or control of Esso ;

(iii) all debts, liabilities and obligations of whatever kind in Pakistan pertaining to such business, as were, immediately before the commencing day, subsisting against Esso ;

(iv) all liabilities and entitlements of Esso undertakings for amounts payable to and recoverable from any other businesses or undertakings of Esso in Pakistan which, immediately before the commencing day, were subsisting on the basis of moneys pertaining to or arising out of any other businesses or undertakings of Esso in Pakistan which were utilized for the purposes of Esso undertakings being treated as liabilities and moneys pertaining to or arising out of Esso undertakings which were utilized for the purposes of any other businesses or undertakings of Esso in Pakistan being treated as entitlements ;

(v) all liabilities and entitlements of the Esso branch in Pakistan for amounts payable to and receivable from the principal office of Esso in the United States of America which, immediately before the commencing day, were subsisting on account of products and services pertaining to Esso undertakings ;

(vi) all liabilities and obligations of Esso for the payment of pensions to such of its former employees, or their personal representatives, who were, immediately before the commencing day, entitled to receive pensions on account of the past service of such former employees with Esso in Pakistan ;

(vii) all contracts and agreements pertaining to Esso undertakings, including the Sale and Purchase Agreement dated the first day of January, 1976, between Pakistan Refinery and Esso and the Agreements between Burmah Shell Oil Storage and Distributing Company of Pakistan Limited, Standard-Vacuum Oil Company and Caltex Oil (Pakistan) Limited relating to the Joint Hydrant System at the Karachi Airport ;

(viii) the profit or loss arising out of any Esso undertakings during the period between the first day of January, 1976, and the close of business on the day immediately preceding the commencing day ;

(ix) all liabilities of Esso for taxes and surcharges thereon leviable on or in relation to the income, profits or gains of Esso arising out of any Esso undertakings up to and inclusive of the year of account ending the thirty-first day of December, 1975 ;

(x) all entitlements of Esso to credit or refund of taxes or any payments made for or in respect of any assessment or liability under the Income-tax Act, 1922 (XI of 1922), relating to any income, profits or gains of Esso arising out of any Esso undertakings up to and inclusive of the year of account ending the thirty-first day of December, 1975 ;

but does not include—

(1) the business of Esso in Pakistan relating to natural gas and crude oil ;

(2) the corporate name, trading styles and trade and service names, marks and other insignia used by Esso, any trade marks registered by Esso in Pakistan, or any right of Esso to use any trade mark registered in Pakistan by Exxon Corporation, a corporation incorporated in the State of New Jersey, United States of America, and having its principal office in New York, State of New York, United States of America ;

(3) any patent or design registered in Pakistan in the name of Esso or any affiliate of Esso ;

(4) any confidential and proprietary information and material or information and material pertaining to trade secrets belonging to Esso or procured by Esso for use in connection with Esso undertaking ;

(5) the business and any assets of Esso situated in the territories which immediately before the sixteenth day of December, 1971, constituted the Province of East Pakistan, and any claims by or against Esso and any receivables and payables of Esso pertaining to any business at any time carried on by Esso in such territories ;

(6) the Agreement dated the fifteenth day of September, 1976, between the President of Pakistan and Esso ;

(7) the policies of insurance issued in Pakistan by New Hampshire Insurance Company of Manchester, New Hampshire, U. S. A., in favour of Esso ;

(8) the benefits of any policies of insurance available to Esso in connection with the supply in Pakistan of aviation fuels and lubricants to international airlines ; or

(9) any contracts entered into by Esso for the delivery of aviation fuels and lubricants outside Pakistan to aircraft operated by the Pakistan International Airlines Corporation ;

(e) "Pak-Stanvac Petroleum Project" means the joint exploration and production arrangements created by the Memorandum of Agreement between Esso under its former name of Standard-Vacuum Oil Company and the Governor-General of Pakistan, dated the 24th September, 1954, as amended ; and

(f) "Pakistan Refinery" means Pakistan Refinery Limited, a company incorporated in Pakistan under the Companies Act, 1913 (VII of 1913), and having its registered office at Korangi Creck Road, Karachi.

3. **Ordinance to override other laws.**—This Ordinance shall have effect notwithstanding anything contained in any other law for the time being in force

or in any instrument having effect by virtue of any law other than this Ordinance and notwithstanding any decree or order of any court, tribunal, commission or other authority.

4. **Vesting of Esso undertakings.**—(1) As from the commencing day, the Esso undertakings, and all rights, titles and interests therein, shall stand transferred to and vest in the Federal Government.

(2) All deeds, bonds, contracts, agreements, powers-of-attorney, grants of legal representation and other instruments of whatever nature in relation to Esso undertakings subsisting and having effect immediately before the commencing day to which Esso is a party or which are in favour of Esso shall be of full force and effect against or in favour of the Federal Government and may be enforced and acted upon as fully and effectively as if references in such deeds, bonds, contracts, agreements, powers, grants and instruments to Esso were references to the Federal Government.

(3) All suits, appeals and other legal proceedings instituted by or against Esso for the purpose of, or in relation to, Esso undertakings, and pending immediately before the commencing day, shall be deemed to be suits, appeals and legal proceedings by or against the Federal Government and the same shall not abate, be discontinued or be in any way prejudicially affected by reason of the vesting of Esso undertakings, or of anything contained in this Ordinance, but the suit, appeal or other proceeding may be continued, prosecuted and enforced by or against the Federal Government.

(4) Where any property is held by Esso for the purpose of or in relation to Esso undertakings under any lease or licence or under any right of tenancy or occupancy, the Federal Government shall be deemed to have become the lessee, licence, occupant or tenant, as the case may be, in respect of such property as if the lease, licence, right of occupancy or tenancy had been granted to the Federal Government and thereupon all rights under such lease, licence, occupancy or tenancy, including any right of renewal thereof, shall be deemed to have vested in the Federal Government.

(5) The profit or loss arising during the period between the first day of January, 1976, until the close of business on the day immediately preceding the commencing day out of any business comprised in Esso undertakings shall be deemed to be the profit or loss of the Federal Government and such profit or loss shall not be treated as accruing or arising or as having been received, whether actually or notionally, by Esso for any purpose including the computation of Esso's taxable income for the year 1976 or any other period for purposes of assessment of taxes and surcharges thereon levied on or in relation to income, profits or gains.

5. **Vesting in a Government company.**—(1) The Federal Government may, by notification in the official Gazette, direct that the Esso undertakings shall stand transferred to and vest in the Government company on such day, not being a day earlier than the commencing day, as may be specified in the notification.

(2) Where Esso undertakings vest in the Government company under sub-section (1), the Government company shall, on and from the day of such vesting, be deemed to have become the owner, tenant, occupant, lessee or licencee, as the case may be, in relation to Esso undertakings, and all the rights and liabilities of the Federal Government in relation to Esso undertakings shall, on and from the day of such vesting, be deemed to have become the rigths and liabilities, respectively, of the Government company.

(3) Where Esso undertakings vest in the Government company under sub-section (1), all officers and employees transferred to the Federal Government under sub-section (1) of section 10 shall, on and from the day of such vesting, stand transferred to the Government company, and the provisions of sub-sections (2), (3), (4) and (5) of section 4, sections 6 and 7, sub-section (5) of section 10 and sections 11, 12, 13, 15 and 17 shall apply to the Government company as they apply to the Federal Government and, in the application of the said sections for the purposes of this section, a reference to the Federal Government shall be construed as a reference to the Government company.

6. **Contracts.**—(1) Every contract referred to in sub-clause (vii) of clause (d) of section 2 and entered into by Esso for any service, sale or supply in Pakistan or abroad and inforce immediately before the commencing day shall, unless terminated under sub-section (2) within one year from the commencing day, continue to be of full force and effect against or in favour of the Federal Government.

(2) The Federal Government may, if it is satisfied that any contract referred to in sub-section (1) is unduly onerous or is detrimental to the interests of the Federal Government, by order in writing, either terminate such contract or make such alterations or modifications therein as it may think fit :

Provided that the Federal Government shall not terminate any contract or make any alteration or modification therein except after giving to the parties to the contract a reasonable opportunity of being heard and except after recording its reasons for such termination, alteration or modification, as the case may be.

7. **Lease.**—On the expiry of the term of any lease, licence or tenancy referred to in sub-section (4) of section 4, such lease, licence or tenancy shall, if so desired by the Federal Government, be renewed on the same terms and conditions on which the lease, licence or tenancy was held by Esso immediately before the commencing day.

8. **Re-organization of Government company.**—(1) If the Esso undertakings are vested in a Government company under sub-section (1) of section 5, the Federal Government may direct the Board of Management constituted under the Marketing of Petroleum Products (Federal Control) Act, 1974 (XVII of 1974), to draw up a plan for the re-organization of the company with a view to increasing its efficiency and rationalising its operations, hereafter in this section referred to as the re-organization plan.

(2) The re-organization plan may include provision for amalgamation of the Government company with any one or more managed companies under the Marketing of Petroleum Products (Federal Control) Act, 1974 (XVII of 1974), and may provide for a scheme for the re-construction of the Government company or such company or companies or amalgamation of the Government company with any one or more such company or companies and such scheme may provide for all or any of the matters contained in section 153 or section 153B of the Companies Act, 1913, (VII of 1913), or for alteration of share capital or loan structure and alteration of existing, or adoption of fresh, memorandum or articles of association of such companies.

(3) The re-organization plan shall be submitted to the Federal Government for approval and shall be simultaneously published in the official Gazette accompanied by a certified statement showing the value of the holdings of the shares of the Federal Government in the companies covered by the plan on the

date of the submission of the plan, and, from the date of such submission, dealings in shares of the companies covered by the plan in any of the stock exchanges shall remain suspended until the Federal Government has approved the re-organization plan.

(4) The re-organization plan shall be implemented and shall take effect in such manner and at such time and with such modification as may be approved by the Federal Government.

9. **Payment.**—The Federal Government shall pay Esso for Esso undertakings on the commencing day the sum set forth in the Agreement dated the fifteenth day of September, 1976, between the President of Pakistan and Esso, and such payment shall be made in the currencies and in the manner provided in the said Agreement.

10. **Provisions relating to officers and other employees of Esso undertakings.**—(1) Except as otherwise agreed between the Federal Government and Esso, every whole-time officer or other employee of Esso who was, immediately before the commencing day, employed by Esso in Pakistan in connection with Esso undertakings, and every such whole-time officer or other employee of Esso in Pakistan who was, immediately before the commencing day, temporarily holding any assignment outside Pakistan, shall, on the commencing day, become an officer or other employee, as the case may be, of the Federal Government and shall hold office on the same terms and conditions and with the same rights to pension, gratuity and other matters as would have been admissible to him if this Ordinance had not come into force and shall continue to do so unless and until his employment by the Federal Government is terminated or until his remuneration and conditions of service are altered by the Federal Government.

(2) Any officer or employee who becomes an officer or employee of the Government company under sub-section (3) of section 5 may be transferred by the Federal Government to any other corporation, company or industrial unit controlled by it, and shall hold office therein on such terms and conditions as are not less favourable than those to which he was entitled immediately before such transfer.

(3) Any officer or employee who becomes an officer or employee of the Government company under sub-section (3) of section 5 or is transferred under sub-section (2) shall not be entitled to any compensation or to the designation which he was holding immediately before the commencing day or on the date of such transfer, as the case may be, and no claim for such compensation or designation shall be entertained by any court, tribunal or other authority.

(4) Notwithstanding anything contained in any agreement or any law for the time being in force, and notwithstanding any decree, order, award or direction of any court, tribunal, arbitrator, commission or other authority, the transfer of the services of any officer or other employee under sub-section (1) shall not entitle any such officer or other employee to any payment, whether by way of separation benefits, compensation, gratuity or otherwise, by reason only of his ceasing to be an employee of Esso, and no proceedings for the declaration, recognition, quantification or enforcement of any such entitlement or payment, whether filed before, on or after the commencing day, shall be adjudicated upon or otherwise entertained by any court, tribunal, arbitrator, commission or other authority.

(5) Where any officers or employees have become officers or employees of the Federal Government under sub-section (1), the Federal Government may, for the purpose of rationalising the pay scales of such officers or employees or for any other good and adequate reason, alter the terms and conditions of service of such officers or employees as to their remuneration in such manner as it thinks fit ; and if the alteration thus made is not accepted in writing by the officer or employee concerned within such period as may be specified, which period shall not be less

than thirty days, he shall be deemed to have resigned from service on the expiry of such period, and notwithstanding anything contained in any other law, or in any agreement or in any decree, order, award, or directions of any Court, arbitrator, Commission or other authority, or in any conditions of service, he shall only be entitled to benefits payable on resignation and not termination of employment.

(6) Where any question arises as to whether any person was immediately before the commencing day a permanent officer or other employee of Esso for the purpose of or in relation to Esso undertakings, the question shall be referred to the Federal Government whose decision thereon shall be final.

11. **Provident Fund.**—(1) The moneys and investments in the provident fund established by Esso for the benefit of the persons employed by it in Pakistan shall, on the commencing day, stand transferred to and vest in the Federal Government free from any trust that may have been constituted by Esso in respect thereof, and the trustees of the provident fund shall, as from the commencing day, stand discharged from the trust, except as respects things done or omitted to be done before the commencing day.

(2) The Federal Government shall cause the firm of chartered accountants in Pakistan agreed with Esso to determine as of the day immediately preceding the commencing day the contributions to the provident fund of such officers and other employees of Esso as are excepted under sub-section (1) of section 10 by agreement between the Federal Government and Esso and the contributions of Esso to the provident fund in respect of such officers and employees, and the interest due on all such contributions, and within thirty days of the commencing day the Federal Government shall—

(a) pay to the new trustees of the provident fund to be appointed by Esso the amount of all such contributions and interest; and

(b) pay and transfer the balance of the moneys and investments then remaining to the trustees of the trust or trusts referred to in sub-section (3).

(3) The Federal Government shall, as soon as may be after the commencing day, constitute, in respect of the balance of moneys and investments referred to in clause (b) of sub-section (2) one or more trusts having such objects as in the circumstances may be practicable so, however, that the rights and interests of the beneficiaries under the trust created by Esso are not in any way prejudiced or diminished:

Provided that the Federal Government may not constitute any new trust if a suitable trust already exists for the benefit of the officers and employees for whose benefit a trust is to be created and may transfer the balance of the said moneys and investments to the existing trust.

(4) The Federal Government may, by order, vest in the trustees of the trust or trusts referred to in sub-section (3) all collateral securities assigned to the trustees of the provident fund mentioned in sub-section (1) by officers or employees whose services stand transferred to the Federal Government under sub-section (1) of section 10.

12. **Delivery of possession of vested property.**—(1) Where any property or other assets stand transferred to and vested in the Federal Government under this Ordinance, every person in whose possession, custody or control any such property or assets (including books, documents, or other papers relating to Esso undertakings) may be, shall be liable to account for such property or assets and shall deliver the same to the Federal Government upon demand.

(2) Without prejudice to the provisions of sub-section (1), the Federal Government may take all such steps as may be necessary to take possession or assume control of the properties, assets, books, documents and other papers referred to in that sub-section.

13. **Penalty.**—Any person who—

(a) wrongfully obtains possession of, or retains, or having in his possession, custody or control, wrongfully withholds, any property or other assets transferred to and vested in the Federal Government under this Ordinance ; or

(b) having in his possession, custody or control any book, register, document or other papers relating to Esso undertakings, wilfully withholds or fails to furnish or deliver the same to the Federal Government,

shall be punishable with imprisonment for a term which may extend to five years, or with fine which may extend to fifty-thousand rupees, or with both.

14. **Offences by companies.**—Where an offence under this Ordinance has been committed by a company, every person who, at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of its business, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Provided that nothing contained in this section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

15. **Protection of action taken in good faith.**—No suit, prosecution or other legal proceeding shall lie against the Federal Government or any person for anything which is in good faith done or intended to be done under this Ordinance.

16. **Cognizance of offences.**—Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), no court shall take cognizance of any offence under this Ordinance except on a complaint in writing made by or under the authority of the Federal Government.

17. **Savings.**—(1) Nothing contained in this Ordinance shall affect any undertaking or business of Esso in connection with the exploration of petroleum, the production, refining, treating and transportation of natural gas and crude oil, and the purchase, distribution, marketing and selling of natural gas and crude oil.

(2) In particular, and without prejudice to the generality of the provisions of sub-section (1), nothing contained in this Ordinance shall affect—

(a) any share held by Esso in the equity capital of the Pakistan Refinery, or any deed, bond, agreement other than the Agreements referred to in sub-clause (vii) of clause (d) of section 2, power-of-attorney, proxy, grant of legal representation or other instrument of whatever nature pertaining to the Pakistan Refinery, including specifically but without limitation the agreement entitled "Refinery Agreement" between the President of Pakistan, the Burmah Oil Company Limited, California Texas Oil Corporation, the Shell petroleum Company Limited and Esso under its former name of Standard-Vacuum Oil Company, as supplemented by the Refinery letter Agreements Nos. 1, 2 and 3 and by the Tanker Letter Agreement, all dated the 28th November, 1959, and by the Ministry of Industries and Natural Resources, Government of Pakistan, letter No. P-III-1 (49)|61, dated the 9th November, 1962, and the agreement between the Government of Pakistan and the parties to the Refinery Agreement, including the Pakistan Refinery, dated the 21st November, 1975 ;

(b) any part of the interest held by Esso in the Pak-Stanvac Petroleum Project, in any licence or lease issued pursuant thereto or in any asset belonging to or held for the benefit of the participants in the Pak-Stanvac Petroleum Project ;

(c) the assets identified in the Second Schedule to the Agreement referred to in section 9 ;

(d) any contracts, agreements, assets, rights, powers, authorities and privileges, or any property, movable or immovable, book debts, cash balances, reserves, provisions or investments pertaining to any undertaking or business mentioned in sub-section (1), or any other rights and interest in or arising out of such property, as are in the ownership, possession, power or control of Esso ;

(e) any books of account, registers, records or any other documents of whatever nature pertaining to any undertaking or business mentioned in sub-section (1) ;

(f) any liability of Esso for taxes and duties payable in relation to production, sale, import, export or other dealings pertaining to any undertaking or business mentioned in sub-section (1), or any entitlement of Esso to credit for or refund of payments made for or in respect of any such liability ;

(g) any liability of Esso for payment of annuities, pensions, gratuities or other separation benefits to such officers and employees of Esso as are excepted under sub-section (1) of section 10 by agreement between the Federal Government and Esso, or any liability or entitlement of Esso for sums payable to or receivable from such officers and employees ;

(h) any other liability, indebtedness or obligation of Esso of whatever kind pertaining to any undertaking or business mentioned in sub-section (1) ;

(i) the claim or entitlement, if any, of Esso to payment out of the moneys declared and paid to the Administrator under the Abandoned Properties (Taking Over and Management) Act, 1975 (XX of 1975), by the trustees of the provident fund established by Esso for the benefit of its employees ;

(j) any suit, application or other legal proceeding instituted against Esso relating to the inland mechanically propelled vessel M. V. Esso Ark registered in the territories which immediately before the sixteenth day of December, 1971, constituted the Province of East Pakistan ;

(k) any provisions or allocations of money made in the accounts of the Esso branch in Pakistan for liabilities accrued or accruing in respect of any period preceding the commencing day on account of—

  (i) any liability indebtedness or obligations of the kind mentioned in clause (f), (g) or (h) or sub-clause (5) of clause (d) of section 2 ; or

  (ii) any profits arising from any undertaking or business mentioned in sub-section (1).

(3) The payment of the amount determined in accordance with section 9 to Esso for Esso undertakings shall not release the Federal Government from payment to Esso, or release Esso from payment to the Federal Government, of the net amount of the accounts pertaining to Esso undertakings—

(i) for sums payable to and receivable from the Esso branch in Pakistan from and to Esso abroad and Esso affiliates (that is Exxon Corporation or any company of which Exxon Corporation controls, directly or indirectly, fifty per cent or more of the voting shares) with respect to products and services ; and

(ii) for sums payable to and receivable from Esso undertakings from and to the other business and undertakings of Esso in Pakistan with respect to the moneys pertaining to or arising out of the one being utilized for the purposes of the other.

18. **Removal of doubts.**—(1) For the removal of doubts, it is hereby declared that the provisions of section 4 shall apply to the extent to which any property appertains to the Esso undertakings and to the rights, powers, debts, liabilities and obligations of Esso comprised in Esso undertakings referred to in clause (d) of section 2, and to contracts, agreements and other instruments made by Esso in Pakistan in relation to Esso undertakings, and to legal proceedings relating to those matters pending in any court or tribunal in Pakistan.

(2) If any question arises, otherwise than as between the Federal Government or the Government company and Esso or between Esso and any other person, as to whether any property in Pakistan appertains, on the commencing day, to Esso undertakings, or whether any leases, licences, rights, powers, debts, liabilities or obligations were vested under this Ordinance or whether any contract, agreement or other instrument was made by Esso for the purposes of Esso undertakings, or whether any documents relate to those purposes, the question shall be referred to the Federal Government which shall, after giving an opportunity of being heard to the persons interested in the matter, decide it in such manner as it may think fit.

19. **Power to make rules.**—The Federal Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Ordinance.

20. **Power to remove difficulties.**—If any difficulty arises in giving effect to the provisions or carrying out the purposes of this Ordinance, the Federal Government may make such orders as it may consider necessary to remove the difficulty :

Provided that no such power shall be exercised after the expiry of one year from the commencement of this Ordinance.

FAZAL ELAHI CHAUDHRY,
President.

Countersigned.

ZULFIKAR ALI BHUTTO,
Prime Minister.

ABDUL HAYEE KURESHI,
Secretary.

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The Gazette of Pakistan

EXTRAORDINARY
PUBLISHED BY AUTHORITY

ISLAMABAD, MONDAY, SEPTEMBER 20, 1976

PART I

Acts, Ordinances, President's Orders and Regulations

NATIONAL ASSEMBLY SECRETARIAT

Islamabad, the 20th September, 1976

The following Act of Parliament received the assent of the President on the 14th September, 1976, and is hereby published for general information :—

ACT No. LXIII OF 1976

An Act further to amend the Suppression of Terrorist Activities (Special Courts) Act, 1975

WHEREAS it is expedient further to amend the Suppression of Terrorist Activities (Special Courts) Act, 1975 (XV of 1975), for the purpose hereinafter appearing ;

It is hereby enacted as follows :—

1. **Short title and commencement.**—(1) This Act may be called the Suppression of Terrorist Activities (Special Courts) (Amendment) Act, 1976.

(2) It shall come into force at once.

2. **Amendment of section 5, Act XV of 1975.**—In the Suppression of Terrorist Activities (Special Courts) Act, 1975 (XV of 1975), in section 5, in sub-section (7), the word "summons" shall be omitted.

3. **Repeal.**—The Suppression of Terrorist Activities (Special Courts) (Amendment) Ordinance, 1976 (XXVIII of 1976), is hereby repealed.

MUHAMMAD ILYAS,
Additional Secretary.

Price : Ps. 19

[3273 Ex. Gaz.]

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 20th September, 1976

No. F. 24 (1)|76-Pub.—The following Ordinance made by the President on the 18th September, 1976 is hereby published for general information :—

ORDINANCE No. XXXIII OF 1976

AN

ORDINANCE

to amend the Criminal Law Amendment (Special Court) Act, 1976

WHEREAS it is expedient to amend the Criminal Law Amendment (Special Court) Act, 1976 (XVII of 1976), for the purposes hereinafter appearing ;

AND WHEREAS the National Assembly is not in session and the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the Criminal Law Amendment (Special Court) (Third Amendment) Ordinance, 1976.

(2) It shall come into force at once.

2. In the Criminal Law Amendment (Special Court) Act, 1976 (XVII of 1976), in section 6, in sub-section (1),—

(a) for clause (a) the following shall be substituted, namely :—

" (a) as soon as the accused appear or are brought before the Special Court, the formal charges referred to in section 5 shall be read and explained to them, and each one of them shall be asked whether he is guilty ; " ; and

(b) in clause (c), the following Explanation shall be inserted at the end, namely :—

" *Explanation.*—For the purposes of this clause and clause (cc), an accused who refuses to plead or claims to be tried shall be deemed to be pleading not guilty. ".

3. **Saving.**—Nothing in this Ordinance shall be deemed to require the formal charges referred to in section 5 of the aforesaid Act to be read and explained to an accused to whom they have already been read and explained before the commencement of this Ordinance or to require any such accused to be asked whether he pleads guilty.

FAZAL ELAHI CHAUDHRY,
President.

Countersigned.

ZULFIKAR ALI BHUTTO,
Prime Minister.

ABDUL HAYEE KURESHI,
Secretary.

No. F. 24 (1)|76-Pub.—The following Ordinance made by the President on the 18th September, 1976 is hereby published for general information :—

ORDINANCE No. XXXIV OF 1976

AN

ORDINANCE

further to amend the Legal Practitioners and Bar Councils Act, 1973

WHEREAS it is expedient further to amend the Legal Practitioners and Bar Councils Act, 1973 (XXXV of 1973), for the purpose hereinafter appearing ;

AND WHEREAS the National Assembly is not in session and the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 89 of the Constitution, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the Legal Practitioners and Bar Councils (Amendment) Ordinance, 1976.

(2) It shall come into force at once.

2. **Amendment of section 4, Act XXXV of 1973.**—In the Legal Practitioners and Bar Councils Act, 1973 (XXXV of 1973), in section 4,—

(a) for the word " three " the word " four " shall be substituted ; and

(b) in the proviso, for the figure " 1976 " the figure " 1977 " shall be substituted.

FAZAL ELAHI CHAUDHRY,
President.

Countersigned.

ZULFIKAR ALI BHUTTO,
Prime Minister.

ABDUL HAYEE KURESHI,
Secretary.

CORRIGENDA

[to the *Gazette of Pakistan, Extraordinary, Part I,* dated June 4, 1976 containing Acts No. XXXIII to XL of 1976.]

In the Compulsory Service in the Armed Forces (Amendment) Act, 1976 (XXXVI of 1976), appearing at Pages 343 to 346 of the said Gazette,—

(i) in sections 2 to 8, *for* " Act " wherever occurring *read* " Ordinance " ;

(ii) in section 9,—

- (a) *for* " Act " wherever occurring *read* " Ordinance " ; and
- (b) *for* " othewise " *read* " otherwise " ; and

(iii) in section 10, *for* " Act " wherever occurring *read* " Ordinance ".

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PUBLISHED BY AUTHORITY

ISLAMABAD, TUESDAY, NOVEMBER 30, 1976

PART I

Acts, Ordinances, President's Orders and Regulations

NATIONAL ASSEMBLY SECRETARIAT

Islamabad, the 30th November, 1976

The following Act of Parliament received the assent of the President on the 28th November, 1976, and is hereby published for general information :—

ACT No. LXIV OF 1976

An Act to enact a law relating to contempt of court

WHEREAS, in view of the provisions of Article 204 of the Constitution of the Islamic Republic of Pakistan, it is necessary to enact a law relating to contempt of court;

It is hereby enacted as follows :—

1. **Short title, extent and commencement.**—(1) This Act may be called the Contempt of Court Act, 1976.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. **Interpretation.**—In this Act, unless there is anything repugnant in the subject or context,—

(a) "judge" includes all officers acting in a judicial capacity in the administration of justice ; and

(b) judicial proceedings in relation to any matter shall be deemed to be pending from the time when a court has come to be seized of the matter in a judicial capacity, till such time as the appellate, revisional or review proceedings in respect of the matter have come to an end or the period of limitation for filing such proceedings has expired without any such proceedings having been initiated.

3. **Contempt of court.**—Whoever disobeys or disregards any order, direction or process of a court, which he is legally bound to obey; or commits a wilful breach of a valid undertaking given to a court; or does anything which is intended to or tends to bring the authority of a court or the administration of law into disrespect or disrepute, or to interfere with or obstruct or interrupt or prejudice the process of law or the due course of any judicial proceedings, or to lower the authority of a court or scandalize a judge in relation to his office, or to disturb the order or decorum of a court, is said to commit "contempt of court":

Provided that the following shall not amount to commission of contempt of court—

(i) fair comments about the general working of courts made in good faith in the public interest and in temperate language;

(ii) fair comments on the merits of a decision of a court made, after the pendency of the proceeding in a case, in good faith and in temperate language without impugning the integrity or impartiality of the judge;

(iii) subject to a prohibition of publication under section 9 or under any other law for the time being in force, the publication of a fair and substantially accurate report of any judicial proceedings;

(iv) the publication of any matter, amounting to a contempt of court by reason of its being published during the pendency of some judicial proceedings, by a person who had no reasonable ground for believing that such judicial proceedings were pending at the time of the publication of the matter;

(v) the distribution of a publication, containing matter amounting to contempt of court, by a person who had no reasonable ground for believing that the publication contained, or was likely to contain, any such matter;

(vi) a true averment made in good faith and in temperate language for initiation of action or in the course of disciplinary proceedings against a judge, before the Chief Justice of a High Court, the Chief Justice of Pakistan, the Supreme Judicial Council, the Federal Government or a Provincial Government;

(vii) a plea of truth taken up as a defence in terms of clause (vi) in proceedings for contempt of court arising from an earlier averment unless it is mendaciously false;

(viii) relevant observations made in a judicial capacity, such as, those by a higher court on an appeal or revision or application for transfer of a case, or by a court in judicial proceedings against a judge;

(ix) remarks made in an administrative capacity by any authority in the course of official business, including those in connection with a disciplinary inquiry or in an inspection note or a character roll or confidential report; and

(x) a true statement made in good faith respecting the conduct of a judge in a matter not connected with the performance of his judicial functions.

4. **Punishment.**—Whoever commits contempt of court or abets the commission of contempt of court may be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both :

Provided that, on being satisfied that the accused, whether after defending himself or without offering any defence, has purged himself of the contempt of court, the court may discharge the accused or remit his sentence.

5. **Jurisdiction.**—(1) A High Court or the Supreme Court, on its own information or on information laid before it by any person, may take cognizance of an alleged commission of contempt of the court.

(2) The Supreme Court shall have the power to take cognizance of any contempt of itself or of any judge of the Supreme Court alleged to have been committed anywhere and a High Court shall have the power to take cognizance of any contempt of itself or of any judge thereof or of any other High Court or of any judge thereof alleged to have been committed within the territorial limits of its jurisdiction.

(3) A High Court shall exercise the same jurisdiction in respect of contempts of courts subordinate to it or to any other High Court as it exercises in respect of contempts of itself.

(4) Nothing contained herein shall affect the power of any court to punish any offence of contempt under the Pakistan Penal Code (Act XLV of 1860).

6. **Bars to taking cognizance.**—(1) No High Court shall take cognizance under this Act of a contempt alleged to have been committed in respect of a court subordinate to it where the said contempt is an offence punishable under the Pakistan Penal Code (Act XLV of 1860).

(2) No court shall take cognizance, as of a contempt of court, of any averment made before the Supreme Judicial Council in respect of which the Supreme Judicial Council has given a finding that the averment fulfilled the requirements of clause (vi) of the proviso to section 3.

(3) No court shall take cognizance of a contempt of court arising from an averment made in due course in appellate, revisional or review proceedings, till such proceedings have been finalised and no further apppeal, revision or review lies.

(4) No court shall take cognizance of a contempt of court arising from an averment made before the Chief Justice of a High Court, the Chief Justice of Pakistan, the Supreme Judicial Council, the Federal Government or a Provincial Government—

(a) until the petition to which the averment relates has been finally disposed of ; or

(b) otherwise than under the orders of the Chief Justice of the High Court, the Chief Justice of Pakistan, the Supreme Judicial Council, the Federal Government or the Provincial Government, as the case may be.

7. **Procedure for Supreme Court and High Court.**—(1) Whenever it appears to the Supreme Court or a High Court that there is sufficient ground for believing that a person has committed contempt of court and that it is necessary in the

interest of effective administration of justice to proceed against him, it shall make an order in writing to that effect setting forth the substance of the charge against the accused, and, unless he is present in court, shall require by means of an appropriate process that he appear or be brought before it to answer the charge.

(2) The court shall inform the accused of the ground on which he is charged with contempt of court and call upon him to show cause why he should not be punished.

(3) The court, after holding such inquiry and taking such evidence as it deems necessary or is produced by the accused in his own defence and after hearing the accused and such other person as it deems fit, shall give a decision in the case :

Provided that, in any such proceedings before the Supreme Court or a High Court, any finding given in its own proceedings by the Supreme Judicial Council about the nature of an averment made before it, that is relevant to the requirements of clause (vi) of the proviso to section 3, shall be conclusive evidence of the nature of such averment.

(4) If contempt of court is committed in the view or presence of the court, the court may cause the offender to be detained in custody and, at any time before the rising of the court on the same day, may proceed against him in the manner provided for in the preceding sub-sections.

Explanation.—Notwithstanding anything contained in clause (x) of the proviso to section 3, in any proceeding under this sub-section, it shall not be open to the offender to take up a plea of truth of the statement for making which he is proceeded against.

(5) If any case referred to in sub-section (4) cannot be finally disposed of on the same day, the court shall order the release of the offender from custody either on bail or on his own bond.

8. **Transfer of proceedings for reasons personal to the judge.**—(1) Where, in a case in which a judge has made an order under sub-section (1) of section 7, not being a case referred to in sub-section (4) of that section, the alleged contempt of court involves scandalization personal to such judge and is not scandalization of the court as a whole or of all the judges of the court, the judge shall forward the record of the case and such comments, if any, as he deems fit to make, to the Chief Justice of the court.

(2) On receipt of the papers mentioned in sub-section (1), the Chief Justice, after inviting, if he deems fit, further comments, if any, from the judge first taking cognizance of the offence and making such inquiry in such manner as he deems fit, shall pass orders specifying which one of the following shall hear the case—

(a) another judge, which, if the Chief Justice so orders, may be the Chief Justice ;

(b) a Bench of judges set up by the Chief Justice, of which the judge first taking cognizance of the offence is not a member ;

and the case shall then be heard accordingly.

(3) If, at any stage of a case in which the Chief Justice has passed an order under clause (a) of sub-section (2), the Chief Justice is of opinion that, in the interests of justice, the case shall be transferred to another judge, he may pass an order accordingly ; and the case shall then be heard by such other judge.

(4) When, in pursuance of an order under sub-section (2), the judge first taking cognizance of the case is not hearing the case,—

(a) the other judge or, as the case may be, the Bench of judges hearing the case may invite or receive any further comments from the judge first taking cognizance of the offence and shall call and hear any witnesses whom such judge desires to be examined ; and

(b) all comments furnished by the judge first taking cognizance of the offence shall be treated as evidence in the case and such judge shall not be required to appear to give evidence.

(5) When in a case the first cognizance of the offence has been taken by the Chief Justice, the functions of the Chief Justice under sub-sections (1), (2) and (3) shall be performed by a Bench of judges composed of the two next most senior judges available.

9. **Proceedings in camera and prohibition of publication of proceedings.**—In case of proceedings for transfer of a hearing under section 8 or of any proceedings in which truth is pleaded as a defence in terms of clause (vi) of the proviso to section 3, the court, if it deems it fit in the public interest, may hear the case or any part thereof *in camera* and prohibit the publication of the proceedings of the case or any part thereof.

10. **Appeal and limitation for appeal.**—(1) From an original order passed by the High Court under this Act an appeal shall lie, if the order is passed by a single judge, to a Division Bench, and if it is passed by a Bench of two or more judges, to the Supreme Court.

(2) An appeal shall lie to the Supreme Court from an order passed by a Division Bench of a High Court in appeal against an order passed by a single judge.

(3) An appeal under sub-section (1) or sub-section (2) shall be filed—

(a) in the case of an appeal to a Bench of the High Court, within thirty days ; and

(b) in the case of an appeal to the Supreme Court, within sixty days,

from the date of the order appealed against.

11. **Power to make rules.**—The Supreme Court or, as the case may be, a High Court, may make rules, not inconsistent with the provisions of this Act, providing for any matter relating to its procedure.

12. **Repeal.**—The Contempt of Courts Act, 1926 (XII of 1926), is hereby repealed.

M. A. HAQ,
Secretary.

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ISLAMABAD, SATURDAY, DECEMBER 4, 1976

PART I

Acts, Ordinances, President's Orders and Regulations

NATIONAL ASSEMBLY SECRETARIAT

Islamabad, the 4th December, 1976

The following Acts of Parliament received the assent of the President on the 26th November, 1976, and are hereby published for general information :—

ACT No. LXV OF 1976

An Act further to amend the Defence of Pakistan Ordinance, 1971

WHEREAS it is expedient further to amend the Defence of Pakistan Ordinance, 1971 (XXX of 1971), for the purpose hereinafter appearing ;

It is hereby enacted as follows :—

1. **Short title, extent and commencement.**—(1) This Act may be called the Defence of Pakistan (Fourth Amendment) Act, 1976.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. **Amendment of section 12, Ordinance XXX of 1971.**—In the Defence of Pakistan Ordinance, 1971 (XXX of 1971), section 12 shall be re-numbered as sub-section (1) of that section and, after sub-section (1) re-numbered as aforesaid, the following new sub-section shall be added, namely :—

> "(2) A Special Tribunal shall have the power to punish any person who obstructs or abuses its process or disobeys any of its orders or directions, or does anything which tends to prejudice the case of a party before it, or tends to bring it or any of its members into hatred or contempt, or does anything which, by law, constitutes contempt of court, with simple imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both.".

3. **Repeal.**—The Defence of Pakistan (Fourth Amendment) Ordinance, 1976 (XLIII of 1976), is hereby repealed.

Price : Ps. 25

[3893 Ex. Gaz.]

ACT No. LXVI OF 1976

An Act further to amend the Criminal Law Amendment (Special Court) Act, 1976

WHEREAS it is expedient further to amend the Criminal Law Amendment (Special Court) Act, 1976 (XVII of 1976), for the purposes hereinafter appearing;

It is hereby enacted as follows :—

1. **Short title and commencement.**—(1) This Act may be called the Criminal Law Amendment (Special Court) (Second Amendment) Act, 1976.

(2) It shall come into force at once.

2. **Amendment of section 6, Act XVII of 1976.**—In the Criminal Law Amendment (Special Court) Act, 1976 (XVII of 1976), in section 6, in sub-section (1),—

(a) for clause (a) the following shall be substituted, namely :—

"(a) as soon as the accused appear or are brought before the Special Court, the formal charges referred to in section 5 shall be read and explained to them, and each one of them shall be asked whether he is guilty ; " ; and

(b) in clause (c), the following Explanation shall be inserted at the end, namely :—

"*Explanation.*—For the purposes of this clause and clause (cc), an accused who refuses to plead or claims to be tried shall be deemed to be pleading not guilty. ".

3. **Saving.**—Nothing in this Act shall be deemed to require the formal charges referred to in section 5 of the aforesaid Act to be read and explained to an accused to whom they have already been read and explained before the commencement of the Criminal Law Amendment (Special Court) (Third Amendment) Ordinance, 1976 (XXXIII of 1976), or to require any such accused to be asked whether he pleads guilty.

4. **Repeal.**—The Criminal Law Amendment (Special Court) (Third Amendment) Ordinance, 1976 (XXXIII of 1976), is hereby repealed.

ACT No. LXVII OF 1976

An Act further to amend the Legal Practitioners and Bar Councils Act, 1973

WHEREAS it is expedient further to amend the Legal Practitioners and Bar Councils Act, 1973 (XXXV of 1973), for the purpose hereinafter appearing;

It is hereby enacted as follows :—

1. **Short title and commencement.**—(1) This Act may be called the Legal Practitioners and Bar Councils (Second Amendment) Act, 1976.

(2) It shall come into force at once.

2. **Amendment of section 4, Act XXXV of 1973.**—In the Legal Practitioners and Bar Councils Act, 1973 (XXXV of 1973), in section 4,—

(a) for the word "three" the word "four" shall be substituted ; and

(b) in the proviso, for the figure "1976" the figure "1977" shall be substituted.

3. **Repeal.**—The Legal Practitioners Bar Councils (Amendment) Ordinance, 1976 (XXXIV of 1976), is hereby repealed.

ACT No. LXVIII OF 1976

An Act further to amend the National Registration Act, 1973

WHEREAS it is expedient further to amend the National Registration Act, 1973 (LVI of 1973), for the purpose hereinafter appearing ;

It is hereby enacted as follows :—

1. **Short title and commencement.**—(1) This Act may be called the National Registration (Amendment) Act, 1976.

(2) It shall come into force at once.

2. **General amendment, Act LVI of 1973.**—In the National Registration Act, 1973 (LVI of 1973), hereinafter referred to as the said Act, for the expressions "Registrar-General", "Joint Registrar-General", "Deputy Registrar-General" and "Assistant Registrar-General", wherever occurring, the expressions "Director-General", "Director", "Deputy Director" and "Assistant Director" shall, respectively, be substituted.

3. **Amendment of section 11, Act LVI of 1973.**—In the said Act, in section 11, in sub-section (1), in clause (k), for the words and commas "with fine not exceeding fifty rupees or, in default of payment of fine, with simple imprisonment for a period not exceeding fifteen days" the words and commas "with rigorous imprisonment for a period not exceeding three months, or with fine not exceeding one thousand rupees, or with both" shall be substituted.

ACT No. LXIX OF 1976

An Act to amend the Flour Milling Control and Development Act, 1976

WHEREAS it is expedient to amend the Flour Milling Control and Development Act, 1976 (LVII of 1976), for the purpose hereinafter appearing ;

It is hereby enacted as follows :—

1. **Short title and commencement.**—(1) This Act may be called the Flour Milling Control and Development (Amendment) Act, 1976.

(2) It shall come into force at once.

2. **Amendment of section 3, Act LVII of 1976.**—In the Flour Milling Control and Development Act, 1976 (LVII of 1976) in section 3, in the proviso, after the word "establishment", the words "or which are run for the benefit of any class of persons or for charitable objects" shall be inserted.

3. **Repeal.**—The Flour Milling Control and Development (Amendment) Ordinance, 1976 (XXXVI of 1976), is hereby repealed.

ACT No. LXX OF 1976

An Act to amend the Cost and Industrial Accountants Act, 1966

WHEREAS it is expedient to amend the Cost and Industrial Accountants Act, 1966 (XIV of 1966), for the purposes hereinafter appearing;

It is hereby enacted as follows :—

1. **Short title and commencement.**—(1) This Act may be called the Cost and Industrial Accountants (Amendment) Act, 1976.

(2) It shall come into force at once.

2. **Amendment of long title and preamble, Act XIV of 1966.**—In the Cost and Industrial Accountants Act, 1966 (XIV of 1966), hereinafter referred to as the said Act, in the long title and the preamble, for the word "industrial" the word "management" shall be substituted.

3. **Amendment of section 1, Act XIV of 1966.**—In the said Act, in section 1, in sub-section (1), for the words, comma and figure "Cost and Industrial Accountants Act, 1966" the words, comma and figure "Cost and Management Accountants Act, 1966" shall be substituted.

4. **Amendment of section 2, Act XIV of 1966.**—In the said Act, in section 2,—

(a) in sub-section (1),—

(i) after clause (a), the following new clause shall be inserted, namely :—

"(aa) 'cost and management accountant' means a person who is an associate or a fellow member of the Institute ;";

(ii) clause (e) shall be omitted ; and

(iii) in clause (f), for the words "Pakistan Institute of Industrial Accountants" the words "Institute of Cost and Management Accountants of Pakistan" shall be substituted ; and

(b) in sub-section (2),—

(i) in clauses (a), (b) and (c), for the word "industrial" the word "management" shall be substituted ; and

(ii) in clause (d), for the words "an industrial" the words "a cost and management" shall be substituted.

5. **Substitution of heading of Chapter II, Act XIV of 1966.**—In the said Act, in Chapter II, for the heading "Pakistan Institute of Industrial Accountants" the heading "Institute of Cost and Management Accountants of Pakistan" shall be substituted.

6. **Amendment of section 3, Act XIV of 1966.**—In the said Act, in section 3, in sub-section (1), for the words "Pakistan Institute of Industrial Accountants" the words "Institute of Cost and Management Accountants of Pakistan" shall be substituted.

7. **Amendment of section 5, Act XIV of 1966.**—In the said Act, in section 5,—

(a) in sub-section (2), for the letters "A.P.I.A." the letters "A.C.M.A." shall be substituted ; and

(b) in sub-section (3), for the letters "F.P.I.A." the letters "F.C.M.A." shall be substituted.

8. **Amendment of section 7, Act XIV of 1966.**—In the said Act, in section 7,—

(a) in the marginal heading, for the words "Industrial Accountants' the words "Cost and Management Accountants" shall be substituted;

(b) in sub-section (1), for the words "Industrial Accountant" the words "Cost and Management Accountant" shall be substituted; and

(c) in sub-section (2),—

(i) for the words "Industrial Accountant" the words "Cost and Management Accountant" shall be substituted; and

(ii) for the words "Industrial Accountants" the words "Cost and Management Accountants" shall be substituted.

9. **Amendment of section 8, Act XIV of 1966.**—In the said Act, in section 8, in clause (v), the words "transportation or" shall be omitted.

10. **Amendment of section 14, Act XIV of 1966.**—In the said Act, in section 14, in sub-section (2), in clauses (j) and (k), for the word "industrial" the word "management" shall be substituted.

11. **Amendment of section 21, Act XIV of 1966.**—In the said Act, in section 21,—

(a) in clause (1), for the words, letters and comma "Industrial Accountant or the letters A.P.I.A., F.P.I.A." the words, letters and comma "Management Accountant or the letters A.C.M.A., F.C.M.A." shall be substituted; and

(b) in clause (2),—

(i) for the words "an industrial accountant" the words "a cost and management accountant" shall be substituted; and

(ii) for the words "industrial accounting" the words "management accounting" shall be substituted.

12. **Amendment of section 22, Act XIV of 1966.**—In the said Act, in section 22, in sub-sections (1) and (4), for the word "industrial", wherever occurring, the word "management" shall be substituted.

13. **Amendment of section 23, Act XIV of 1966.**—In the said Act, in section 23,—

(a) in the marginal heading, for the words "industrial accountancy" the words "cost and management accountancy" shall be substituted; and

(b) in sub-section (1), for the word "industrial" the word "management" shall be substituted.

14. **Amendment of section 24, Act XIV of 1966.**—In the said Act, in section 24, in sub-section (1),—

(a) for the words "an industrial accountant" the words "a cost and management accountant" shall be substituted; and

(b) for the words "industrial accountants" the words "cost and management accountants" shall be substituted.

15. **Amendment of section 32, Act XIV of 1966.**—In the said Act, in section 32,—

(a) in sub-section (1),—

(i) for the words "an industrial accountant" the words "cost and management accountant" shall be substituted;

(ii) for the words "industrial accountants", twice occurring, the words "cost and management accountants" shall be substituted; and

(iii) for the words "industrial accountant" the words "cost and management accountant" shall be substituted; and

(b) in sub-section (2), for the words "industrial accountant" the words "cost and management accountant" shall be substituted.

16. **Amendment of section 33, Act XIV of 1966.**—In the said Act, in section 33, for the word "industrial", wherever occurring, the word "management" shall be substituted.

17. **Amendment of section 34, Act XIV of 1966.**—In the said Act, in section 34, in sub-section (2), in clauses (l) and (m), for the word "industrial" the word "management" shall be substituted.

M. A. HAQ,
Secretary.

Islamabad, the 4th December, 1976

The following Act of Parliament received the assent of the President on the 28th November, 1976, and is hereby published for general information :—

ACT NO. LXXI OF 1976

An Act to amend the Civil Servants Act, 1973

WHEREAS it is expedient to amend the Civil Servants Act, 1973 (LXXI of 1973), for the purpose hereinafter appearing;

It is hereby enacted as follows :—

1. **Short title, application and commencement.**—(1) This Act may be called the Civil Servants (Amendment) Act, 1976.

(2) It applies to all civil servants wherever they may be.

(3) It shall come into force at once.

2. **Amendment of section 13, Act LXXI of 1973.**—In the Civil Servants Act, 1973 (LXXI of 1973), in section 13, in clause (iii), for the word "fifty-eight" the word "sixtieth" shall be substituted.

M. A. HAQ,
Secretary.

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PART I

Acts, Ordinances, President's Orders and Regulations

NATIONAL ASSEMBLY SECRETARIAT

Islamabad, the 8th December, 1976

The following Acts of Parliament received the assent of the President on the Ist December, 1976, and are hereby published for general information :—

ACT No. LXXII OF 1976

An Act to amend the Rice Milling Control and Development Act, 1976

WHEREAS it is expedient to amend the Rice Milling Control and Development Act, 1976 (LVIII of 1976), for the purpose hereinafter appearing ;

It is hereby enacted as follows :—

1. **Short title and commencement.**—(1) This Act may be called the Rice Milling Control and Development (Amendment) Act, 1976.

(2) It shall come into force at once.

2. **Amendment of section 3, Act LVIII of 1976.**—In the Rice Milling Control and Development Act, 1976 (LVIII of 1976), in section 3 in the proviso, after the word " huller ", the words " or rice mills which are run for the benefit of any class of persons or for charitable objects " shall be inserted.

3. **Repeal.**—The Rice Milling Control and Development (Amendment) Ordinance, 1976 (XXXVII of 1976), is hereby repealed.

Price : Rs. 37

ACT No. LXXIII OF 1976

An Act to amend the Cotton Ginning Control and Development Act, 1976

WHEREAS it is expedient to amend the Cotton Ginning Control and Development Act, 1976 (LIX of 1976), for the purpose hereinafter appearing ;

It is hereby enacted as follows :—

1. **Short title and commencement.**—(1) This Act may be called the Cotton Ginning Control and Development (Amendment) Act, 1976.

(2) It shall come into force at once.

2. **Amendment of section 3, Act LIX of 1976.**—In the Cotton Ginning Control and Development Act, 1976 (LIX of 1976), in section 3, for the full stop at the end a colon shall be substituted and thereafter the following proviso shall be added, namely :—

> " Provided that the Federal Government may, by notification in the official Gazette, exempt any establishment, which is run for the benefit of any class of persons or for charitable objects from the operation of the provisions of this section from such date not preceding the date of commencement of this Act as may be specified in the notification. ".

3. **Repeal.**—The Cotton Ginning Control and Development (Amendment) Ordinance, 1976 (XXXVIII of 1976), is hereby repealed.

ACT No. LXXIV OF 1976

An Act further to amend the Land Reforms Regulation, 1972

WHEREAS it is expedient further to amend the Land Reforms Regulation, 1972, for the purpose hereinafter appearing ;

AND WHEREAS the Proclamation of Emergency referred to in Article 280 of the Constitution of the Islamic Republic of Pakistan is in force ;

It is hereby enacted as follows :—

1. **Short title and commencement.**—(1) This Act may be called the Land Reforms (Second Amendment) Act, 1976.

(2) It shall come into force at once.

2. **Amendment of paragraph 29 of the Land Reforms Regulation, 1972.**—In the said Regulation, in paragraph 29, in the third proviso, in clause (a), for the figures, letters, words and comma " 30th day of September, 1976 " the figures, letters, words and comma " 30th day of November, 1976 " shall be substituted.

3. **Repeal.**—The Land Reforms (Second Amendment) Ordinance, 1976 (XXXV of 1976), is hereby repealed.

ACT No. LXXV OF 1976

An Act to give effect in Pakistan to the International Plant Protection Convention, 1951

WHEREAS it is expedient to give effect in Pakistan to the International Plant Protection Convention, 1951, and to provide for matters connected therewith ;

It is hereby enacted as follows :—

1. **Short title, extent and commencement.**—(1) This Act may be called the Pakistan Plant Quarantine Act, 1976.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. **Definitions.**—In this Act, unless there is anything repugnant in the subject or context,—

(a) "Convention" means the International Plant Protection Convention, 1951 ;

(b) "crop" includes all agricultural or horticultural crops and all trees, bushes, grass or plants ;

(c) "import" means the bringing or taking by sea, land or air across any customs frontier as defined by the Federal Government and includes transportation by any means from one Province to another or from one place to another within a Province ;

(d) "infection" means infection by any insect, fungus, or other pest injurious to a crop or plant ;

(e) "pest" means any living stage of any or all insects, mites, nematodes, slugs, snails, protozoa, or other invertebrate animals, fungi, bateria, or other parasitic plants or reproductive parts thereof, virus or any organism, or any infectious substance which may directly or indirectly injure or cause disease to any crop or plant ; and

(f) "plant" means all species of plants or parts thereof whether living or dead including stemps, branches, tubers, bulbs, corms, stocks, bud-wood, cuttings, layers, slips, suckers, roots, green-scum on stagnant pools, leaves, flowers, fruits and seeds.

3. **Power to prohibit or regulate import of certain articles.**—(1) The Federal Government may, by notification in the official Gazette, prohibit, restrict or otherwise regulate, subject to such conditions as it may think fit to impose, import of any article or class of articles likely to cause infection to any crop or plant, or of any pest generally or any class of pests.

(2) A notification under this section may specify any article or class of articles or any pest or class of pests either generally or in any particular manner, whether with reference to the country of origin, or the route by which imported or otherwise.

(3) Any condition imposed under a notification under this section may require—

(a) compliance with the provisions of the Convention ;

(b) examination by authorised persons of goods articles of plant origin and pests brought in or to be taken out;

(c) obtaining of certificate of non-infection; and

(d) treatment or detention, confiscation and destruction of infected goods or articles of plant origin.

4. **Operation of notification under section 3.**—A notification under section 3 shall operate as if it has been issued under section 16 of the Customs Act, 1969 (IV of 1969), and the officers of customs shall have the same powers in respect of any goods, articles of plant origin or pests in respect of which such a notification has ben issued as they have for the time being in respect of any article the importation of which is prohibited or restricted under the said Act, and all the provisions of that Act shall have effect accordingly.

5. **Goods and articles import or transportation of which prohibited not to be carried.**—When a notification has been issued under section 3, then, notwithstanding anything contained in any other law for the time being in force, the person responsible for the booking of goods or parcels at any port, railway station, airport or other place,—

(i) where the notification prohibits import, shall refuse to receive for carriage at, or to forward, or knowingly allow to be carried by sea, air, land, rail or other carrier from that port, station, airport or place anything of which the import has been prohibited; and

(ii) where the notification imposes any conditions upon import, shall so refuse unless the prescribed documents showing that the conditions have been fulfilled are produced.

6. **Penalty.**—Whoever contravenes or attempts to contravene any of the provisions of this Act, or of any rules made or notification issued thereunder, shall, without prejudice to any confiscation or penalty to which he may be liable under the provisions of the Customs Act, 1969 (IV of 1969), as applied by section 4, be punishable with fine which may extend to five hundred rupees and, upon any subsequent conviction, with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both.

7. **Cognizance of offence.**—No Court shall take cognizance of any offence under this Act except upon complaint in writing made by any officer authorised by the Federal Government in this behalf.

8. **Indemnity.**—No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

9. **Delegation of powers.**—The Federal Government may delegate to a Provincial Government, or to any officer or authority of such Government, any of its powers under this Act in so far as it relates to the prohibition or restriction of bringing or taking into or out of any place from or to another place within a Province or to the transportation from one place to another within a Province or to the sale of goods or articles of plant origin imported in contravention of any of the provisions of this Act.

10. **Power to make rules.**—(1) The Federal Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(a) the method and manner of examination and treatment of goods and articles of plant origin likely to cause infection to any crop or plant ;

(b) the form of certificate of non-infection ;

(c) the documents to be produced before goods or articles of plant origin are accepted for carriage ; and

(d) the fees to be levied under this Act.

11. **Repeal.**—The Destructive Insects and Pests Act, 1914 (II of 1914), is hereby repealed.

ACT No. LXXVI OF 1976

An Act further to amend the State Bank of Pakistan Act, 1956

WHEREAS it is expedient further to amend the State Bank of Pakistan Act, 1956 (XXXIII of 1956), for the purpose hereinafter appearing ;

It is hereby enacted as follows :—

1. **Short title and commencement.**—(1) This Act may be called the State Bank of Pakistan (Amendment) Act, 1976.

(2) It shall come into force at once.

2. **Amendment of section 10, Act XXXIII of 1956.**—In the State Bank of Pakistan Act, 1956 (XXXIII of 1956), in section 10, in sub-section (10), in clause (d), for the fullstop at the end a colon shall be substituted and thereafter the following proviso shall be added, namely :—

> "Provided that a person appointed to be the Governor or a Deputy Governor who attains the age of sixty-five years before he has held office for a period of three years may hold office for a period not exceeding three years.".

3. **Repeal.**—The State Bank of Pakistan (Amendment) Ordinance, 1976 (XLII of 1976), is hereby repealed.

ACT No. LXXVII OF 1976

An Act to regulate the working of fee-charging and other employment agencies conducted with a view to profit for placement of workers within Pakistan.

WHEREAS it is expedient to regulate the working of fee-charging and other employment agencies conducted with a view to profit for placement of workers within Pakistan and for matters connected therewith or ancillary thereto ;

It is hereby enacted as follows :—

1. **Short title, extent and commencement.**—(1) This Act may be called the Fee-Charging Employment Agencies (Regulation) Act, 1976.

(2) It extends to the whole of Pakistan.

(3) It shall come into force in such areas and on such dates as the Federal Government may, by notification in the official Gazette, specify in this behalf:

Provided that the Federal Government may, by notification in the official Gazette, exclude certain industries or establishments or classes of employment or employment agencies from the operation of all or any of the provisions of this Act.

2. **Definitions.**—In this Act, unless there is anything repugnant in the subject or context,—

(a) "competent authority" means an officer appointed to be the competent authority under section 4;

(b) "employment agency" means a person, company, institution, agency, firm or other organisation who or which acts as intermediary for the purpose of procuring employment for a worker, or supplying a worker for an employer, in Pakistan;

(c) "establishment" means any office, firm, industrial unit, undertaking, shop or premises in which persons are employed;

(d) "industry" means any business, trade, manufacture, calling, service employment or occupation;

(e) "fee-charging employment agency" means—

(i) an employment agency conducted with a view to deriving either directly or indirectly any pecuniary or other material advantage from an employer or worker;

(ii) an employment agency though not conducted with a view to deriving any pecuniary or other material advantage, levies on the employer or worker for its services an entrance fee, a periodical contribution or any other charge;

(f) "licence" means a licence issued under section 5;

(g) "prescribed" means prescribed by rules;

(h) "public employment service" means any office, agency or service set up and maintained by the Federal Government or a Provincial Government to find or procure employment for workers, or to supply, or assist in the supply of, workers to employers;

(i) "rules" means rules made under this Act; and

(j) "worker" means a person seeking employment.

3. **Prohibition to act as fee-charging employment agency.**—After the enforcement of this Act, no employment agency shall, save as hereinafter provided, act as a fee-charging employment agency in any area:

Provided that an employment agency acting immediately before the enforcement of this Act as a fee-charging employment agency may continue so to act for, and may apply for a licence within, a period of six months from such enforcement.

4. **Appointment and powers of competent authority.**—(1) The Federal Government may, by notification in the official Gazette, appoint an officer to be the competent authority for the purposes of this Act.

(2) The competent authority or an officer authorised by it in writing in this behalf may, with a view to securing compliance with the provisions of this Act or the rules, or any order or direction made or issued thereunder, or the terms or conditions of any licence,—

(a) require any person to give such information or produce such documents in his possession with respect to any business or service of the nature of employment agency carried on or rendered by such person or any person employed by him as the competent authority or such officer may demand ;

(b) enter into and search any premises of an establishment or industry with such assistance as may be necessary and inspect any book or other document belonging to or under the control of any person acting or reasonably suspected to be acting as an employment agency ; and

(c) take on the spot or otherwise such evidence of any person as the competent authority or such officer may deem necessary :

Provided that no one shall be required under this section to answer any question or give any evidence tending to incriminate himself.

5. **Issue, renewal, cancellation and suspension of licence.**—(1) The competent authority may issue a licence for operating a fee-charging employment agency to—

(a) a person who is a citizen of Pakistan ;

(b) a firm, all the partners of which are citizens of Pakistan ; or

(c) a company, the majority of the shares of which is held by citizens of Pakistan.

(2) A licence shall be issued in such manner and form, and on payment of such fee and deposits, as may be prescribed.

(3) A licence shall, unless earlier cancelled or suspended, be valid for one year, and may, in the discretion of the competent authority and on payment of the prescribed fee, be renewed for a like period.

(4) A licence shall be liable to be cancelled or suspended and the deposit forefeited in whole or in part by the competent authority for the contravention of any of the provisions of this Act or the rules, or any order or direction made or issued thereunder, or the breach of any of its terms and conditions.

6. **Prohibition of operation of fee-charging employment agency in certain cases.**—Where a public employment service has been set up for any area, the competent authority may, by notification in the official Gazette, prohibit from such date as may be specified therein the operation of, or the rendering of any service by, all or any of the fee-charging employment agencies operating in such area, and on such prohibition the licences issued for such area shall stand cancelled from the date specified in the notifiation and no compensation shall be paid therefor :

Provided that the competent authority may, in consultation with the organisations of employers, and workers in that area, exempt from the operation of the notification the placing or recruitment of specified categories of workers with respect to whom appropriate arrangements for placing or recruitment cannot conveniently be made by a public employment service.

7. **Offences and penalties.**—(1) Whoever wilfully contravenes any provision of this Act or the rules, or any order or direction made or issued thereunder, or the terms or conditions of any licence, shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to five thousand rupees, or with both.

(2) Where an offence punishable under sub-section (1) is committed by a corporation, firm, establishment, industry or undertaking, every director, manager, secretary, partner, agent or other officer or person concerned with the management thereof shall, unless he proves that the offence was committed without his knowledge or consent or that he exercised due diligence to prevent its commission, be deemed to be guilty or such offence.

8. **Cognizance of offences.**—No court shall take cognizance of an offence under this Act except upon a complaint in writing made by the competent authority or an officer authorised by it in this behalf.

9. **Competent authority, etc., to be public servants.**—The competent authority or the officer authorised by it under sub-section (2) of section 4 shall be deemed to be a public servant within the meaning of section 21 of the Pakistan Penal Code (Act XLV of 1860).

10. **Indemnity.**—No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rule.

11. **Power to make rules.**—(1) The Federal Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(a) form of licence to be issued ;

(b) procedure for the issue and renewal of licences, the fees and deposits for their issue and renewal ;

(c) procedure for the cancellation or suspension of a licence, or prohibition of operation of fee-charging employment agencies ;

(d) fees and expenses to be charged by the fee-charging employment agencies ;

(e) manner of recruitment and placement of various type of workers ;

(f) returns and forms ; and

(g) procedure of consultation with organisation of workers and employers.

12. **Act not to apply to certain persons.**—Nothing in this Act shall apply to—

(a) any person licensed under the Merchant Shipping Act, 1923 (XXI of 1923), to engage or supply seamen to merchant ships ;

(b) employment exchanges or any other public employment service managed by the Federal Government or a Provincial Government ; and

(c) any person permitted under the Emigration Act, 1922 (VII of 1922), to engage persons for placement abroad.

ACT No. LXXVIII OF 1976

An Act further to amend the Newspaper Employees (Conditions of Service) Act, 1973.

WHEREAS it is expedient further to amend the Newspaper Employees (Conditions of Service) Act, 1973 (LVIII of 1973), for the purposes hereinafter appearing ;

It is hereby enacted as follows :—

1. **Short title and commencement.**—(1) This Act may be called the Newspaper Employees (Conditions of Service) (Amendment) Act, 1976.

(2) It shall come into force at once.

2. **Substitution of section 12A, Act LVIII of 1973.**—In the Newspaper Employees (Conditions of Service) Act, 1973 (LVIII of 1973), hereinafter referred to as the said Act, for section 12A the following shall be substituted, namely :—

"12-A. *Tribunal.*—(1) The Federal Government may, by notification in the official Gazette, constitute a Tribunal consisting of one or more members to implement the decision of the Board under section 11.

(2) The Chairman and members of the Tribunal shall be appointed by the Federal Government on such terms and conditions as it may determine.

(3) Where the Tribunal consists of one member only, that member, and, where the Tribunal consists of more members than one, the member designated by the Federal Government, shall be the Chairman of the Tribunal.

(4) The Chairman of the Tribunal shall be a person who has been, or is, or is qualified to be, a Judge of a High Court.

(5) The qualifications for appointment as a member of the Tribunal shall be determined by the Federal Government.".

3. **Amendment of section 13, Act LVIII of 1973.**—In the said Act, in section 13,—

(a) in the marginal heading, for the word "Commission" the word "Tribunal" shall be substituted ; and

(b) sub-section (3A) shall be renumbered as sub-section (4) and, after sub-section (4) renumbered as aforesaid, the following new sub-sections shall be added, and shall be deemed to have been so renumbered and added on the twenty-first day of July, 1975, namely :—

"(5) Subject to any rules of procedure which may be prescribed, the Tribunal may, for the purpose of determining the category of a newspaper establishment or the grade of a newspaper employee or otherwise holding an inquiry for the purpose of implementing the decision of the Board, exercise the same powers and follow the same procedure, so far as may be and with the necessary modifications, as the Commission may exercise or follow for the purpose of adjudicating an industrial dispute under the Ordinance.

(6) The Tribunal may require a newspaper establishment to file a declaration in such form and give such information as the Tribunal may determine or require.".

4. **Insertion of section 13B, Act LVIII of 1973.**—In the said Act, after section 13A, the following new section shall be added, namely :—

"13B. *Benches of the Tribunal etc.*—(1) The Chairman of the Tribunal shall exercise general superintendence over its affairs.

(2) Where the Tribunal consist of more members than one,—

(a) the Chairman shall constitute as many benches of the Tribunal consisting of one or more members of the Tribunal as he may deem fit ; and

(b) if any member of the Tribunal who constitutes a bench, or is a member of a bench, is absent from, or otherwise unable to attend, any sitting of a bench, the Chairman of the Tribunal may take over the case himself, or transfer it to another bench, for disposal ; and the Chairman, or, as the case may be, the other bench, may continue the proceedings from the stage they had reached".

5. **Insertion of new section 16A, Act LVIII of 1973.**—In the said Act, after section 16, the following new section shall be added, namely :—

"16A. *Additional power of Board and Tribunal.*—The Board and the Tribunal shall have the same power to punish their respective contempts as the Commission has under section 22C of the Ordinance".

6. **Amendment of section 17, Act LVIII of 1973.**—In the said Act, in section 17, for the full stop at the end a colon shall be substituted and thereafter the following proviso shall be added, namely :—

"Provided that the provisions of this section shall not apply to a person who is employed as the editor of a newspaper".

7. **Amendment of section 18, Act LVIII of 1973.**—In the said Act, in section 18,—

(a) for the words "this Ordinance" the words "this Act" shall be substituted ; and

(b) in the proviso, in clause (i), after the word "capacity" the words "or is the editor of a newspaper" shall be inserted.

8. **Insertion of new section 21A, Act LVIII of 1973.**—In the said Act, after section 21, the following new section shall be added, namely :—

"21A. *Chairman, etc., to be public servants.*—The Chairman of the Board and the Chairman and members of the Tribunal shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code (Act XLV of 1860).".

9. **Amendment of section 23, Act LVIII of 1973.**—In the said Act, in section 23, in sub-section (2), in clause (g), the word "and" shall be omitted

and, after clause (g) amended as aforesaid, the following new clause shall be inserted, namely :—

"(gg) the procedure to be followed by the Tribunal in determining the categories of newspaper establishments or grades of newspaper employees or holding an inquiry for the purpose of implementing the decision of the Board ; and".

M. A. HAQ,
Secretary.

CORRIGENDUM

[*to the* Gazette of Pakistan, *Extraordinary, Part I, dated the 4th December, 1976 containing Act No. LXXI of 1976, dated the 4th December, 1976.*]

Page 612 : In para 2, 2nd line *for* "fifty-eight" *read* fifty-eighth".

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PART I

Acts, Ordinances, President's Orders and Regulations

NATIONAL ASSEMBLY SECRETARIAT

Islamabad, the 30th December, 1976

The following Acts of Parliament received the assent of the President on the 27th December, 1976, and are hereby published for general information :—

ACT No. LXXIX OF 1976

An Act to provide for vesting in the Federal Government of certain undertakings of Esso Eastern Inc. in Pakistan

WHEREAS it is expedient to provide for vesting in the Federal Government of certain undertakings of Esso Eastern Inc. in Pakistan and for matters connected therewith or ancillary thereto ;

AND WHEREAS Esso Eastern Inc., a foreign company, has approached the Federal Government for vesting of certain of its undertakings in Pakistan in the Federal Government ;

AND WHEREAS the scope of such vesting and the amount and manner of the payment to be made to Esso Eastern Inc. for such undertakings has been agreed upon between the Federal Government and Esso Eastern Inc. ;

It is hereby enacted as follows :—

1. **Short title, extent and commencement.**—(1) This Act may be called the Esso Undertakings (Vesting) Act, 1976.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. **Definitions.**—In this Act, unless there is anything repugnant in the subject or context,—

(a) "commencing day" means the day on which this Act comes into force ;

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[4127 Ex. Gaz.]

(b) "Government company" means a company directly or indirectly owned or controlled by the Federal Government in which the Esso undertakings are vested by notification under sub-section (1) of section 5;

(c) "Esso" means Esso Eastern Inc., incorporated under the laws of the State of Delaware in the United States of America, having its principal office at 2401 South Gessner, City of Houston, State of Texas, in the United States of America, and having a branch in Pakistan;

(d) "Esso undertakings" means the business in Pakistan of Esso of purchasing, storing, distributing, blending, marketing and selling of refined petroleum products, of lubricants and of chemical products, and includes—

(i) all assets, rights, powers, authorities and privileges and all property, movable and immovable, book-debts, cash balances, reserves, provisions and investments pertaining to such business, and all other rights and interests in or arising out of such property, in Pakistan, as were, immediately before the commencing day, in the ownership, possession, power or control of Esso;

(ii) all books of accounts, registers, records and all other documents of whatever nature pertaining to such business in Pakistan, as were, immediately before the commencing day, in the possession, power or control of Esso;

(iii) all debts, liabilities and obligations of whatever kind in Pakistan pertaining to such business, as were, immediately before the commencing day, subsisting against Esso;

(iv) all liabilities and entitlements of Esso undertakings for amounts payable to and recoverable from any other businesses or undertakings of Esso in Pakistan which, immediately before the commencing day, were subsisting on the basis of moneys pertaining to or arising out of any other businesses or undertakings of Esso in Pakistan which were utilized for the purposes of Esso undertakings being treated as liabilities and moneys pertaining to or arising out of Esso undertakings which were utilized for the purposes of any other businesses or undertakings of Esso in Pakistan being treated as entitlements;

(v) all liabilities and entitlements of the Esso branch in Pakistan for amounts payable to and receivable from the principal office of Esso in the United States of America which, immediately before the commencing day, were subsisting on account of products and services pertaining to Esso undertakings;

(vi) all liabilities and obligations of Esso for the payment of pensions to such of its former employees, or their personal representatives, who were, immediately before the commencing day, entitled to receive pensions on account of the past service of such former employees with Esso in Pakistan;

(vii) all contracts and agreements pertaining to Esso undertakings, including the Sale and Purchase Agreement dated the first day of January, 1976, between Pakistan Refinery and Esso and the Agreements between Burmah Shell Oil Storage and Distributing

Company of Pakistan Limited, Standard-Vacuum Oil Company and Caltex Oil (Pakistan) Limited relating to the Joint Hydrant System at the Karachi Airport ;

(viii) the profit or loss arising out of any Esso undertakings during the period between the first day of January, 1976, and the close of business on the day immediately preceding the commencing day ;

(ix) all liabilities of Esso for taxes and surcharges thereon leviable on or in relation to the income, profits or gains of Esso arising out of any Esso undertakings up to and inclusive of the year of account ending the thirty-first day of December, 1975 ;

(x) all entitlements of Esso to credit or refund of taxes or any payments made for or in respect of any assessment or liability under the Income-tax Act, 1922 (XI of 1922), relating to any income, profits or gains of Esso arising out of any Esso undertakings up to and inclusive of the year of account ending the thirty-first day of December, 1975 ;

but does not include—

(1) the business of Esso in Pakistan relating to natural gas and crude oil ;

(2) the corporate name, trading styles and trade and service names, marks and other insignia used by Esso, any trade marks registered by Esso in Pakistan, or any right of Esso to use any trade mark registered in Pakistan by Exxon Corporation, a corporation incorporated in the State of New Jersey, United States of America, and having its principal office in New York, State of New York, United States of America ;

(3) any patent or design registered in Pakistan in the name of Esso or any affiliate of Esso ;

(4) any confidential and proprietary information and material or information and material pertaining to trade secrets belonging to Esso or procured by Esso for use in connection with Esso undertaking ;

(5) the business and any assets of Esso situated in the territories which immediately before the sixteenth day of December, 1971, constituted the Province of East Pakistan, and any claims by or against Esso and any receivables and payables of Esso pertaining to any business at any time carried on by Esso in such territories ;

(6) the Agreement dated the fifteenth day of September, 1976, between the President of Pakistan and Esso ;

(7) the policies of insurance issued in Pakistan by New Hampshire Insurance Company of Manchester, New Hampshire, U. S. A., in favour of Esso ;

(8) the benefits of any policies of insurance available to Esso in connection with the supply in Pakistan of aviation fuels and lubricants to international airlines ; or

(9) any contracts entered into by Esso for the delivery of aviation fuels and lubricants outside Pakistan to aircraft operated by the Pakistan International Airlines Corporation ;

(e) " Pak-Stanvac Petroleum Project " means the joint exploration and production arrangements created by the Memorandum of Agreement between Esso under its former name of Standard-Vacuum Oil Company and the Governor-General of Pakistan, dated the 24th September, 1954, as amended ; and

(f) " Pakistan Refinery " means Pakistan Refinery Limited, a company incorporated in Pakistan under the Companies Act, 1913 (VII of 1913), and having its registered office at Korangi Creek Road, Karachi.

3. **Act to override other laws.**—This Act shall have effect notwithstanding anything contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act and notwithstanding any decree or order of any court, tribunal, commission or other authority.

4. **Vesting of Esso undertakings.**—(1) As from the commencing day, the Esso undertakings, and all rights, titles and interests therein, shall stand transferred to and vest in the Federal Government.

(2) All deeds, bonds, contracts, agreements, powers-of-attorney, grants of legal representation and other instruments of whatever nature in relation to Esso undertaking subsisting and having effect immediately before the commencing day to which Esso is a party or which are in favour of Esso shall be of full force and effect against or in favour of the Federal Government and may be enforced and acted upon as fully and effectively as if references in such deeds, bonds, contracts, agreements, powers, grants and instruments to Esso were references to the Federal Government.

(3) All suits, appeals and other legal proceedings instituted by or against Esso for the purpose of, or in relation to, Esso undertakings, and pending immediately before the commencing day, shall be deemed to be suits, appeals and legal proceedings by or against the Federal Government and the same shall not abate, be discontinued or be in any way prejudicially affected by reason of the vesting of Esso undertakings, or of anything contained in this Act, but the suit, appeal or other proceeding may be continued, prosecuted and enforced by or against the Federal Government.

(4) Where any property is held by Esso for the purpose of or in relation to Esso undertakings under any lease or licence or under any right of tenancy or occupancy, the Federal Government shall be deemed to have become the lessee, licencee, occupant or tenant, as the case may be, in respect of such property as if the lease, licencee, right of occupancy or tenancy had been granted to the Federal Government and thereupon all rights under such lease, licence, occupancy or tenancy, including any right of renewal thereof, shall be deemed to have vested in the Federal Government.

(5) The profit or loss arising during the period between the first day of January, 1976, until the close of business on the day immediately preceding the commencing day out of any business comprised in Esso undertakings shall be deemed to be the profit or loss of the Federal Government and such profit or loss shall not be treated as accruing or arising or as having been received, whether actually or notionally, by Esso for any purpose including the computation of Esso's taxable income for the year 1976 or any other period for purposes of assessment of taxes and surcharges thereon levied on or in relation to income, profits or gains.

5. **Vesting in a Government company.**—(1) The Federal Government may, by notification in the official Gazette, direct that the Esso undertakings shall stand transferred to and vest in the Government company on such day, not being a day earlier than the commencing day, as may be specified in the notification.

(2) Where Esso undertakings vest in the Government company under sub-section (1), the Government company shall, on and from the day of such vesting, be deemed to have become the owner, tenant, occupant, lessee or licencee, as the case may be, in relation to Esso undertakings, and all the rights and liabilities of the Federal Government in relation to Esso undertakings shall, on and from the day of such vesting, be deemed to have become the rights and liabilities, respectively, of the Government company.

(3) Where Esso undertakings vest in the Government company under sub-section (1), all officers and employees transferred to the Federal Government under sub-section (1) of section 10 shall, on and from the day of such vesting, stand transferred to the Government company, and the provisions of sub-sections (2), (3), (4) and (5) of section 4, sections 6 and 7, sub-section (5) of section 10 and sections 11, 12, 13, 15 and 17 shall apply to the Government company as they apply to the Federal Government and, in the application of the said sections for the purposes of this section, a reference to the Federal Government shall be construed as a reference to the Government company.

6. **Contracts.**—(1) Every contract referred to in sub-clause (vii) of clause (d) of section 2 and entered into by Esso for any service, sale or supply in Pakistan or abroad and in force immediately before the commencing day shall, unless terminated under sub-section (2) within one year from the commencing day, continue to be of full force and effect against or in favour of the Federal Government.

(2) The Federal Government may, if it is satisfied that any contract referred to in sub-section (1) is unduly onerous or is detrimental to the interests of the Federal Government, by order in writing, either terminate such contract or make such alterations or modifications therein as it may think fit:

Provided that the Federal Government shall not terminate any contract or make any alteration or modification therein except after giving to the parties to the contract a reasonable opportunity of being heard and except after recording its reasons for such termination, alteration or modification, as the case may be.

7. **Lease.**—On the expiry of the term of any lease, licence or tenancy referred to in sub-section (4) of section 4, such lease, licence or tenancy shall, if so desired by the Federal Government, be renewed on the same terms and conditions on which the lease, licence or tenancy was held by Esso immediately before the commencing day.

8. **Re-organization of Government company.**—(1) If the Esso undertakings are vested in a Government company under sub-section (1) of section 5, the Federal Government may direct the Board of Management constituted under the Marketing of Petroleum Products (Federal Control) Act, 1974 (XVII of 1974), to draw up a plan for the re-organization of the company with a view to increasing its efficiency and rationalising its operations, hereafter in this section referred to as the re-organization plan.

(2) The re-organization plan may include provision for amalgamation of the Government company with any one or more managed companies under the

Marketing of Petroleum Products (Federal Control) Act, 1974 (XVII of 1974), and may provide for a scheme for the re-construction of the Government company or such company or companies or amalgamation of the Government company with any one or more such company or companies and such scheme may provide for all or any of the matters contained in section 153 or section 153B of the Companies Act, 1913 (VII of 1913), or for alteration of share capital or loan structure and alteration of existing, or adoption of fresh, memorandum or articles of association of such companies.

(3) The re-organization plan shall be submitted to the Federal Government for approval and shall be simultaneously published in the official Gazette accompanied by a certified statement showing the value of the holdings of the shares of the Federal Government in the companies covered by the plan on the date of the submission of the plan, and, from the date of such submission, dealings in shares of the companies covered by the plan in any of the stock exchanges shall remain suspended until the Federal Government has approved the re-organization plan.

(4) The re-organization plan shall be implemented and shall take effect in such manner and at such time and with such modification as may be approved by the Federal Government.

9. **Payment.**—The Federal Government shall pay Esso for Esso undertakings on the commencing day the sum set forth in the Agreement dated the fifteenth day of September, 1976, between the President of Pakistan and Esso, and such payment shall be made in the currencies and in the manner provided in the said Agreement.

10. **Provisions relating to officers and other employees of Esso undertaking.**—(1) Except as otherwise agreed between the Federal Government and Esso, every whole-time officer or other employee of Esso who was, immediately before the commencing day, employed by Esso in Pakistan in connection with Esso undertakings, and every such whole-time officer or other employee of Esso in Pakistan who was, immediately before the commencing day, temporarily holding any assignment outside Pakistan, shall, on the commencing day, become an officer or other employee, as the case may be, of the Federal Government and shall hold office on the same terms and conditions and with the same rights to pension, gratuity and other matters as would have been admissible to him if this Act had not come into force and shall continue to do so unless and until his employment by the Federal Government is terminated or until his remuneration and conditions of service are altered by the Federal Government.

(2) Any officer or employee who becomes an officer or employee of the Government company under sub-section (3) of section 5 may be transferred by the Federal Government to any other corporation, company or industrial unit controlled by it, and shall hold office therein on such terms and conditions as are not less favourable than those to which he was entitled immediately before such transfer.

(3) Any officer or employee who becomes an officer or employee of the Government company under sub-section (3) of section 5 or is transferred under sub-section (2) shall not be entitled to any compensation or to the designation which he was holding immediately before the commencing day or on the date of such transfer, as the case may be, and no claim for such compensation or designation shall be entertained by any court, tribunal or other authority.

(4) Notwithstanding anything contained in any agreement or any law for the time being in force, and notwithstanding any decree, order, award or direction of any court, tribunal, arbitrator, commission or other authority, the transfer of the services of any officer or other employee under sub-section (1) shall not entitle any such officer or other employee to any payment, whether by way of separation benefits, compensation, gratuity or otherwise, by reason only of his ceasing to be an employee of Esso, and no proceedings for the declaration, recognition, quantification or enforcement of any such entitlement or payment, whether filed before, on or after the commencing day, shall be adjudicated upon or otherwise entertained by any court, tribunal, arbitrator, commission or other authority.

(5) Where any officers or employees have become officers or employees of the Federal Government under sub-section (1), the Federal Government may, for the purpose of rationalising the pay scales of such officers or employees or for any other good and adequate reason, alter the terms and conditions of service of such officers or employees as to their remuneration in such manner as it thinks fit ; and if the alteration thus made is not accepted in writing by the officer or employee concerned within such period as may be specified, which period shall not be less than thirty days, he shall be deemed to have resigned from service on the expiry of such period, and notwithstanding anything contained in any other law, or in any agreement or in any decree, order, award, or directions of any Court, arbitrator, Commission or other authority, or in any conditions of service, he shall only be entitled to benefits payable on resignation and not termination of employment.

(6) Where any question arises as to whether any person was immediately before the commencing day a permanent officer or other employee of Esso for the purpose of or in relation to Esso undertakings, the question shall be referred to the Federal Government whose decision thereon shall be final.

11. **Provident Fund.**—(1) The moneys and investments in the provident fund established by Esso for the benefit of the persons employed by it in Pakistan shall, on the commencing day, stand transferred to and vest in the Federal Government free from any trust that may have been constituted by Esso in respect thereof, and the trustees of the provident fund shall, as from the commencing day, stand discharged from the trust, expect as respects things done or omitted to be done before the commencing day.

(2) The Federal Government shall cause the firm of chartered accountants in Pakistan agreed with Esso to determine as of the day immediately preceding the commencing day the contributions to the provident fund of such officers and other employees of Esso as are excepted under sub-section (1) of section 10 by agreement between the Federal Government and Esso and the contributions of Esso to the provident fund in respect of such officers and employees, and the interest due on all such contributions, and within thirty days of the commencing day the Federal Government shall—

(a) pay to the new trustees of the provident fund to be appointed by Esso the amount of all such contributions and interest ; and

(b) pay and transfer the balance of the moneys and investment then remaining to the trustees of the trust or trusts referred to in sub-section (3).

(3) The Federal Government shall, as soon as may be after the commencing day, constitute, in respect of the balance of moneys and investments referred to in clause (b) of sub-section (2) one or more trusts having such objects as in the

circumstances may be practicable so, however, that the rights and interests of the beneficiaries under the trust created by Esso are not in any way prejudiced or diminished :

Provided that the Federal Government may not constitute any new trust if a suitable trust already exists for the benefit of the officers and employees for whose benefit a trust is to be created and may transfer the balance of the said moneys and investments to the existing trust.

(4) The Federal Government may, by order, vest in the trustees of the trust or trusts referred to in sub-section (3) all collateral securities assigned to the trustees of the provident fund mentioned in sub-section (1) by officers or employees whose services stand transferred to the Federal Government under sub-section (1) of section 10.

12. **Delivery of possession of vested property.**—(1) Where any property or other assets stand transferred to and vested in the Federal Government under this Act, every person in whose possession, custody or control any such property or assets (including books, documents, or other papers relating to Esso undertakings) may be, shall be liable to account for such property or assets and shall deliver the same to the Federal Government upon demand.

(2) Without prejudice to the provisions of sub-section (1), the Federal Government may take all such steps as may be necessary to take possession or assume control of the properties, assets, books, documents and other papers referred to in that sub-section.

13. **Penalty.**—Any person who—

(a) wrongfully obtains possession of, or retains, or, having in his possession, custody or control, wrongfully withholds, any property or other assets transferred to and vested in the Federal Government under this Act ; or

(b) having in his possession, custody or control any book, register, document or other papers relating to Esso undertakings, wilfully withholds or fails to furnish or deliver the same to the Federal Government,

shall be punishable with imprisonment for a term which may extend to five years, or with fine which may extend to fifty-thousand rupees, or with both.

14. **Offences by companies.**—Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of its business, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly ;

Provided that nothing contained in this section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

15. **Protection of action taken in good faith.**—No suit, prosecution or other legal proceeding shall lie against the Federal Government or any person for anything which is in good faith done or intended to be done under this Act.

16. **Cognizance of offences.**—Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), no court shall take cognizance of any offence under this Act except on a complaint in writing made by or under the authority of the Federal Government.

17. **Savings.**—(1) Nothing contained in this Act shall affect any undertaking or business of Esso in connection with the exploration of petroleum, the production, refining, treating and transportation of natural gas and crude oil, and the purchase, distribution, marketing and selling of natural gas and crude oil.

(2) In particular, and without prejudice to the generality of the provisions of sub-section (1), nothing contained in this Act shall affect—

(a) any share held by Esso in the equity capital of the Pakistan Refinery, or any deed, bond, agreement other than the Agreements referred to in sub-clause (vii) of clause (d) of section 2, power-of-attorney, proxy, grant of legal representation or other instrument of whatever nature pertaining to the Pakistan Refinery, including specifically but without limitation the agreement entitled "Refinery Agreement" between the President of Pakistan, the Burmah Oil Company Limited, California Texas Oil Corporation, the Shell petroleum Company Limited and Esso under its former name of Standard-Vacuum Oil Company, as supplemented by the Refinery letter Agreements Nos. 1, 2 and 3 and by the Tanker Letter Agreement, all dated the 28th November, 1959, and by the Ministry of Industries and Natural Resources, Government of Pakistan, letter No. P-III-1 (49)|61, dated the 9th November, 1962, and the agreement between the Government of Pakistan and the parties to the Refinery Agreement, including the Pakistan Refinery, dated the 21st November, 1975;

(b) any part of the interest held by Esso in the Pak-Stanvac Petroleum Project, in any licence or lease issued pursuant thereto or in any asset belonging to or held for the benefit of the participants in the Pak-Stanvac Petroleum Project;

(c) the assets identified in the Second Schedule to the Agreement referred to in section 9;

(d) any contracts, agreements, assets, rights, powers, authorities and privileges, or any property movable or immovable, book-debts, cash balances, reserves, provisions or investments pertaining to any undertaking or business mentioned in sub-section (1), or any other rights and interest in or arising out of such property, as are in the ownership, possession, power or control of Esso;

(e) any books of account, registers, records or any other documents of whatever nature pertaining to any undertaking or business mentioned in sub-section (1);

(f) any liability of Esso for taxes and duties payable in relation to production, sale, import, export or other dealings pertaining to any undertaking or business mentioned in sub-section (1), or any entitlement of Esso to credit for or refund of payments made for or in respect of any such liability;

(g) any liability of Esso for payment of annuities, pensions, gratuities or other separation benefits to such officers and employees of Esso as are excepted under sub-section (1) of scetion 10 by agreement between the Federal Government and Esso, or any liability or entitlement of Esso for sums payable to or receivable from such officers and employees ;

(h) any other liability, indebtedness or obligation of Esso of whatever kind pertaining to any undertaking or business mentioned in sub-section (1) ;

(i) the claim or entitlement, if any, of Esso to payment out of the moneys declared and paid to the Administrator under the Abandoned Properties (Taking Over and Management) Act, 1975 (XX of 1975), by the trustees of the provident fund established by Esso for the benefit of its employees ;

(j) any suit, application or other legal proceeding instituted against Esso relating to the inland mechanically propelled vessel M. V. Esso Ark registered in the territories which immediately before the sixteenth day of December, 1971, constituted the Province of East Pakistan ;

(k) any provisions or allocations of money made in the accounts of the Esso branch in Pakistan for liabilities accrued or accruing in respect of any period preceding the commencing day on account of—

(i) any liability indebtedness or obligations of the kind mentioned in clause (f), (g), or (h) or sub-clause (5) of clause (d) of section 2 ; or

(ii) any profits arising from any undertakings or business mentioned in sub-section (1).

(3) The payment of the amount determined in accordance with section 9 to Esso for Esso undertakings shall not release the Federal Government from payment to Esso, or release Esso from payment to the Federal Government, of the net amount of the accounts pertaining to Esso undertakings—

(i) for sums payable to and receivable from the Esso branch in Pakistan from and to Esso abroad and Esso affiliates (that is Exxon Corporation or any company of which Exxon Corporation controls directly or indirectly, fifty per cent or more of the voting shares) with respect to products and services ; and

(ii) for sums payable to and receivable from Esso undertakings from and to the other business and undertakings of Esso in Pakistan with respect to the moneys pertaining to or arising out of the one being utilized for the purposes of the other.

18. **Removal of doubts.**—(1) For the removal of doubts, it is hereby declared that the provisions of section 4 shall apply to the extent to which any property appertains to the Esso undertakings and to the rights, powers, debts, liabilities and obligations of Esso comprised in Esso undertakings referred to in clause (d) of section 2, and to contracts, agreements and other instruments made by Esso in Pakistan in relation to Esso undertakings, and to legal proceedings relating to those matters pending in any court or tribunal in Pakistan.

(2) If any question arises, otherwise than as between the Federal Government or the Government company and Esso or between Esso and any other persons, as to whether any property in Pakistan appertains, on the commencing day, to Esso undertakings, or whether any leases, licences, rights, powers, debts, liabilities or obligations were vested under this Act or whether any contract, agreement or other instrument was made by Esso for the purposes of Esso undertakings, or

whether any documents relate to those purposes, the question shall be referred to the Federal Government which shall, after giving an apportunity of being heard to the persons interested in the matter, decide it in such manner as it may think fit.

19. **Power to make rules.**—The Federal Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

20. **Power to remove difficulties.**—If any difficulty arises in giving effect to the provisions or carrying out the purposes of this Act, the Federal Government may make such orders as it may consider necessary to remove the difficulty:

Provided that no such power shall be exercised after the expiry of one year from the commencement of this Act.

21. **Repeal.**—The Esso Undertakings (Vesting) Ordinance, 1976 (XXXII of 1976), is hereby repealed.

ACT No. LXXX OF 1976

An Act further to amend the Pakistan Arms Ordinance, 1965

WHEREAS it is expedient further to amend the Pakistan Arms Ordinance, 1965 (W. P. Ordinance No. XX of 1965), for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. **Short title and commencement.**—(1) This Act may be called the Pakistan Arms (Second Amendment) Act, 1976.

(2) It shall come into force at once.

2. **Insertion of new section 11B, W. P. Ordinance No. XX of 1965.**—In the Pakistan Arms Ordinance, 1965 (W. P. Ordinance No. XX of 1965), hereinafter referred to as the said Ordinance, after section 11A, the following new section shall be inserted, namely:—

> "11B. *Prohibition of keeping, carrying or displaying arms.*—(1) The Federal Government may, and if so directed by the Federal Government the Provincial Government shall, by general or special order, prohibit the keeping, carrying or display of arms at such places or times or on such occasions as may be specified in the order.
>
> (2) In particular, and without prejudice to the generality of sub-section (1), an order issued thereunder may prohibit—
>
> (a) the keeping of arms within the premises of educational institutions and the premises of the hostels or boarding and lodging houses relating or affiliated thereto; and
>
> (b) the carrying or display of arms at fairs or in gatherings or processions of a political, religious, ceremonial or sectarian character or in the premises of courts of law or public offices.

(3) Any person keeping, carrying or displaying any arms in contravention of an order issued under sub-section (1) may be disarmed by any Magistrate, Police Officer or other person empowered by Government in this behalf.".

3. **Amendment of section 13, W. P. Ordinance No. XX of 1965.**—In the said Ordinance, in section 13,—

(a) in clause (g), the word "or" at the end shall be omitted;

(b) in clause (h), after the semicolon at the end, the word "or" shall be added; and

(c) after clause (h) amended as aforesaid, the following new clause shall be added, namely:—

"(i) keeps, carries or displays any arms in contravention of an order issued under section 11B;".

4. **Amendment of section 14, W. P. Ordinance No. XX of 1965.**—In the said Ordinance, in section 14, for the proviso the following shall be substituted, namely:—

"Provided that the punishment for an offence committed in respect of any—

(a) cannon, grenade, bomb or rocket; or

(b) light or heavy automatic weapon, rifle of .303 bore or over, musket of .410 bore or over or pistol or revolver of .441 bore or over, or ammunition which can be fired from such weapon, rifle, musket, pistol or revolver,

shall be imprisonment for a term which is not less than two years.".

5. **Amendment of section 16, W. P. Ordinance No. XX of 1965.**—In the said Ordinance, in section 16, for the proviso the following shall be substituted, namely:—

"Provided that the punishment for an offence committed in respect of any—

(a) cannon, grenade, bomb or rocket; or

(b) light or heavy automatic weapon, rifle of .303 bore or over, musket of .410 bore or over or pistol or revolver of .441 bore or over, or ammunition which can be fired from such weapon, rifle, musket, pistol or revolver,

shall be imprisonment for a term which is not less than one year.".

6. **Repeal.**—The Pakistan Arms (Second Amendment) Ordinance, 1976 (XXXI of 1976), is hereby repealed.

M. A. HAQ,
Secretary.

GOVERNMENT OF PAKISTAN

MINISTRY OF INTERIOR, STATES AND FRONTIER REGIONS

(States and F. R. Division)

Islamabad, the 30th December, 1976

No. F. 1 (10)-Sec. III|76.—The following Regulation made by the President on the 12th December, 1976 is hereby published for general information :—

REGULATION No. IV OF 1976

A

REGULATION

to amend the Federally Administered Tribal Areas (Application of Laws) Regulation, 1975.

WHEREAS it is expedient to amend the Federally Administered Tribal Areas (Application of Laws) Regulation, 1975 (I of 1975), for the purpose hereinafter appearing ;

NOW, THEREFORE, in exercise of the powers conferred by clause (5) of Article 247 of the Constitution of the Islamic Republic of Pakistan, the President is pleased to make the following Regulation :—

1. **Short title and commencement.**—(1) This Regulation may be called the Federally Admnistered Tribal Areas (Application of Laws) (Amendment) Regulation, 1976.

(2) It shall come into force at once.

2. **Amendment of Schedule, Regulation I of 1975.**—In the Federally Administered Tribal Areas (Application of Laws) Regulation, 1975 (I of 1975), in the Schedule, after entry 9 at the end, the following new entry shall be added, namely :—

> " 10. The North West Frontier Province Standard Weights and Measures Enforcement Act, 1976 (N. W. F. P. Act III of 1976) ".

FAZAL ELAHI CHAUDHRY,
President.

Countersigned by
ZULFIKAR ALI BHUTTO,
Prime Minister.

AMIRZADA KHAN,
Additional Secretary.

CORRIGENDUM

[to the Gazette of Pakistan, Extraordinary, Part I, dated the 29th November, 1976, containing President's Order No. 6 of 1976.]

Page 596 : In line 14, *for* "Jurisdication" *read* "Jurisdiction".

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PART I

Acts, Ordinances, President's Orders and Regulations

NATIONAL ASSEMBLY OF PAKISTAN

Islamabad, the 4th January, 1977

The following Acts of Parliament received the assent of the President on the 31st December, 1976, and are hereby published for general information :—

ACT No. LXXXI OF 1976

An Act to provide measures for controlling and regulating the standards of service and amenities for tourists in hotels and restaurants

WHEREAS it is expedient to provide measures for controlling and regulating the standards of service and amenities for tourists in hotels and restaurants and for matters ancillary thereto or connected therewith ;

AND WHEREAS the Provincial Assemblies of the Punjab, Sind and North-West Frontier Province, and Parliament, exercising the powers of the Provincial Assembly of Baluchistan under Article 234 of the Constitution of the Islamic Republic of Pakistan, have passed resolutions under Article 144 of the Constitution to the effect that Parliament may by law regulate the standards of service and amenities for tourists in hotels and restaurants ;

It is hereby enacted as follows :—

1. **Short title, extent, application and commencement.**—(1) This Act may be called the Pakistan Hotels and Restaurants Act, 1976.

(2) It extends to the whole of Pakistan.

(3) It shall apply to all the hotels and restaurants in Pakistan.

(4) It shall come into force at once.

Price Ps. 1.00

2. **Definitions.**—In this Act, unless there is anything repugnant in the subject or context,—

(a) "apprentice" means any person who has contracted with a hotel or a restaurant to perform the stipulated apprenticeship in such hotel or restaurant ;

(b) "Committee" means the committee set up by the Federal Government under section 4 ;

(c) "Controller" means a Controller appointed under section 3 and includes a Deputy Controller and an Assistant Controller and such other person as may be authorised by the Federal Government by notification in the official Gazette to perform all or any of the functions of the Controller ;

(d) "customer" means a person availing facilities offered in a restaurant on monetary consideration ;

(e) "fair rates" means the rates fixed under section 10 and includes revised rates ;

(f) "guest" means a person who is in possession or enjoyment of accommodation provided to him in a hotel on monetary consideration ;

(g) "hotel" means a lodging, or boarding and lodging, establishment with a minimum of ten lettable bed rooms, provided for tourists on monetary consideration, which conforms to any of the prescribed minimum criteria, but does not include—

(i) a home or hostel which is exclusively or mainly used for the aged or invalid persons or students and is run by or under the control of a charitable or educational institution ; or

(ii) any rest house, hostel or circuit house exclusively meant for visiting Government officials or officials of other organisations, though run on a commercial basis ;

(h) "manager" means the person incharge of the management of a hotel or a restaurant ;

(i) "owner" means the person who holds title to a hotel or restaurant and is entitled to receive the whole or any part of the earnings received from a guest or customer on account of accommodation or services provided in the hotel or restaurant, and includes a keeper or assignee for the time being discharging the responsibility of the owner in respect of such hotel or restaurant ;

(j) "prescribed" means prescribed by rules made under this Act ;

(k) "public rooms" means rooms in a hotel which are meant for the common use of all guests ;

(l) "restaurant" means a public eating house providing standard and variety of cuisines on monetary consideration to tourists which conforms to the minimum prescribed criteria ;

(m) "service" means any service provided in a hotel or a restaurant ; and

(n) "tourist" means a person, whether a citizen of Pakistan or not, who stays over-night or more as a guest in a hotel at a place other than his normal place of residence.

3. **Appointment of Controller, Deputy Controllers and Assistant Controllers.**—(1) The Federal Government may, by notification in the official Gazette, appoint a person to be the Controller for the purposes of this Act and such number of Deputy Controllers and Assistant Controllers as may be necessary for the performance and discharge of such functions and duties as may be assigned to them by or under this Act and may, by general or special order, provide for the distribution or allocation of work to be performed by them.

(2) Subject to the provisions of this Act, the Controller shall perform his functions and discharge his duties under the general supervision and control of the Federal Government.

(3) Subject to the provisions of this Act and of such orders as may from time to time be made by the Federal Government in this behalf, the Deputy Controllers and Assistant Controllers shall perform their functions and discharge their duties under the general supervision and control of the Controller.

4. **Setting up of Advisory Committee.**—As soon as may be after the commencement of this Act, the Federal Government may set up a Hotels and Restaurants Committee, consisting of as many members as the Federal Government may determine, to aid and advise the Federal Government in relation to such matters relating to the administration of this Act as may be prescribed.

5. **Registration of hotels and restaurants.**—(1) The owner of every hotel and restaurant shall, within a period of two months from the commencement of this Act, or from the opening of the hotel or restaurant, or from the date on which this Act becomes applicable to such hotel or restaurant, whichever is later, apply to the Controller for registration of his hotel or restaurant and for determination of fair rates in relation thereto and, in the case of a hotel, also for its classification, on payment of such fee as may be prescribed.

(2) No hotel or restaurant shall be registered, unless—

(a) it conforms to the prescribed standard of health, hygiene and comfort, provided that the Controller may allow provisional registration subject to such conditions as he may deem fit and, for good and sufficient reasons, modify, alter or withdraw any such condition at any time ;

(b) it furnishes at its expense certificates of medical fitness from a Medical Officer of the civil hospital of the area in respect of its staff in such form as may be prescribed ;

(c) its building is structurally safe and adequately protected against fire or an accident arising out of electricity or gas and safety of the tourists is ensured.

(3) The Controller, or an officer authorised by him in this behalf, or a member of the Committee may, at any time, inspect the premises of a hotel or restaurant, call for any information, plan or data in respect of any matter concerning such hotel or restaurant or, at the cost of the owner, carry out, or require the owner to carry out, test of any articles or appliances or foodstuff.

6. **Classification of hotels.**—Subject to such general or particular directions as the Federal Government may issue, the Controller shall, according to the prescribed minimum criteria, by notification in the official Gazette, classify hotels, according to the star classification system, as—

(a) one star hotels, being hotels which conform to the prescribed minimum criteria of hotels of that class, but do not conform to the prescribed minimum criteria of a higher star class hotel ;

(b) two star hotels, being hotels which conform to the prescribed minimum criteria of hotels of that class, but do not conform to the prescribed minimum criteria of a higher star class hotel ;

(c) three star hotels, being hotels which conform to the prescribed minimum criteria of hotels of that class, but do not conform to the prescribed minimum criteria of a higher star class hotel ;

(d) four star hotels, being hotels which conform to the prescribed minimum criteria of hotels of that class, but do not conform to the prescribed minimum criteria of a higher star class hotel ; and

(e) five star hotels, being hotels which conform to the prescribed minimum criteria of hotels of that class.

7. **Issue of licence.**—(1) Every owner shall, after registration of his hotel or restaurant under section 5, obtain a licence from the Controller on payment of such fee as may be prescribed.

(2) No owner shall carry on his business or, in the case of a hotel, use the classification star sign, without first getting the hotel or restaurant registered and obtaining a licence under this Act.

(3) A licence granted under this section shall, unless sooner suspended or cancelled, remain in force for a period of one year from the date of issue and may thereafter be renewed for a period of one year at a time on payment of the prescribed fee :

Provided that if an application for renewal of a licence is made before the expiry of the period of its validity, the licence shall continue in force until orders are passed on such application.

8. **Refusal and cancellation of registration and licence.**—(1) The Controller may refuse to register a hotel or restaurant if it does not conform to the minimum prescribed criteria.

(2) The rigistration and licence of a hotel or restaurant may be cancelled or suspended, or the star classification of a hotel may be lowered, if—

(a) its owner is declared insolvent by a competent court ;

(b) its business is wholly or partly discontinued or suspended without the approval of the Controller, except where such suspension or discontinuance is for the purposes of making repairs, improvements, renovations or expansion or, in the case of seasonal business, is for the period of the slack season, and the fact of such suspension or discontinuance in each case has been duly reported to the Controller in advance ;

(c) its owner or any person acting on his behalf contravenes any of the provisions of this Act or the rules or orders made thereunder ;

(d) it ceases to conform to the requirements of registration under section 5 or, in the case of a hotel, to the prescribed minimum criteria for the class assigned to it ; or

(e) its owner fails to enter the names and other particulars of guests in the prescribed register.

9. **Obligation of the transferee, etc., of a hotel and restaurant.**—Where a hotel or restaurant registered and licensed under this Act is transferred or assigned to, or devolves upon, any person, it shall be incumbent upon that person to report, within one month of its taking effect, to the Controller the fact of such transfer, assignment or devolution and obtain a fresh licence under this Act.

10. **Controller to fix fair rates.**—(1) The Controller may fix fair rates to be charged for board, lodging and other service provided in a hotel at such amount as, having regard to the prescribed principles governing fair rates and the classification of hotels, he deems just.

(2) The Controller may either fix a consolidated rate for lodging, board and service, or for lodging and service only or fair rates separately for—

(a) lodging with reference to the nature of the accommodation and the number of guests to be accommodated;

(b) board, partial or full; and

(c) other service.

(3) Fair rates may be fixed separately for daily and monthly guests.

Explanation.—A guest who agrees to reserve accommodation, or for whom accommodation is reserved, for a period of one month or more shall be deemed to be a monthly guest, provided he actually stays for one month or more or has actually paid in advance for one month; and where the reservation is not for any specified period or is for a period less than a month, the guest shall be deemed to be a daily guest.

(4) The Controller may fix fair rates to be charged for board and other service provided in a restaurant at such amount, as, having regard to the prescribed principles governing fair rates and to all the circumstances, he deems just.

(5) The Controller may from time to time revise the fair rates fixed by him under this section.

(6) An order fixing or revising fair rates shall take effect on the first day of such month following the month in which the order is made as may be specified therein.

(7) Until such time as fair rates are fixed in relation to any hotel or restaurant under this section, the rate, if any, charged by such hotel or restaurant, immediately before this Act becomes applicable to it, for equivalent lodging, board or service to that provided, shall be deemed to be the fair rates fixed under this section.

11. **Controller to fix limit of persons to be accommodated in any room.**—(1) The Controller may fix the maximum number of guests to be accommodated in each room or other unit of accommodation in a hotel.

(2) No room for which an order has been made under sub-section (1) shall be used to accommodate any number of guests in excess of the number specified in the order, except with the previous permission of the Controller in writing.

(3) The Controller may from time to time revise any order made by him under sub-section (1) so as to increase or reduce the number of guests specified in such order.

12. **Rules of establishment of hotel and restaurant.**—Every owner shall prepare the rules of the establishment in respect of his hotel or restaurant conforming with the provisions of this Act and the rules made thereunder and get them approved by the Controller.

13. **Fair rates, etc., to be displayed.**—(1) The fair rates, the maximum number of guests that may be accommodated in a room or unit of accommodation in a hotel and the rules of the establishment shall be displayed in a conspicuous manner in the office and in the public rooms, if any, of every hotel.

(2) The fair rates and the rules of the establishment shall be displayed in a conspicuous manner in the office and the hall and rooms of every restaurant.

14. **Reservation of accommodation at the instance of Controller.**—(1) Subject to such directions as may be given in this behalf by the Federal Government, the Controller may by order direct the owner or the manager of a hotel to reserve in the hotel such accommodation as may be specified in the order.

(2) Subject to any direction by the Federal Government in this behalf, the Controller may allot the accommodation reserved under sub-section (1) to any person and such person shall thereupon be deemed to be a guest at the hotel in relation to the accommodation allotted to him.

(3) Where any accommodation is reserved under sub-section (1), the owner or the manager of the hotel shall make the accommodation so reserved, or such portion of it as the Controller may direct, available to the Controller for occupation by the person to whom it has been allotted, at the expiry of forty-eight hours from the service upon him of a notice in writing in this behalf by the Controller.

(4) Nothing in this section shall prevent the owner or the manager of the hotel from letting any accommodation reserved under sub-section (1) to a guest other than the person to whom such accommodation is allotted by the Controller, upon the condition that if and when a notice is received from the Controller under sub-section (3) such guest will vacate the accommodation within forty-eight hours of the receipt of such notice.

15. **Charge in excess of fair rates prohibited.**—(1) Notwithstanding any agreement to the contrary, no owner shall charge a guest or customer any amount in excess of the fair rates.

(2) Any agreement for the payment of any charges in excess of the fair rates shall be void in respect of such excess, and shall be construed as if it were an agreement for payment of the fair rates.

(3) Any sum paid by a guest in excess of the fair rates shall be recoverable at any time within a period of six months from the date of payment from the owner or the manager of the hotel to whom it was paid, or from the legal representative of either of these persons, and without prejudice to any other mode of recovery which may be open to him, the guest may deduct such amount from any sum payable by him for his accommodation.

16. **Controller's power to prohibit certain trades and occupations.**—The Controller may, by order in writing, prohibit, within one hundred yards of a

hotel or restaurant, the carrying on of any trade, profession, occupation or industry which in his opinion is likely to be—

(i) injurious to the health and well being of guests or customers or a hazard to their safety ;

(ii) a nuisance as defined in the Pakistan Penal Code (Act LXV of 1860) ; or

(iii) offensive to good taste.

17. **Eviction of guests.**—(1) Except as hereinafter provided, no guest at a hotel shall be evicted or refused board or other service so long as he pays, or is ready and willing to pay, the fair rates and observes the displayed rules of the establishment and conforms with the provisions of this Act and the conditions prescribed thereunder.

(2) A guest or a customer who has been guilty of conduct which amounts to nuisance, or is a source of annoyance to other guests or customers, or threatens or intimidates any other guest or customer, or is likely to endanger the person or life of any individual in a hotel or restaurant, may be evicted by the owner or manager of the hotel or restaurant, provided that, if the owner or manager has good reason to apprehend an immediate breach of peace or commission of an offence by the guest or customer, he may use such force as may be necessary to restrain the guest or customer from so doing and shall immediately intimate the fact to the local police.

(3) Any guest or customer aggrieved by eviction or refusal of board or other services under sub-section (1) or sub-section (2) may lodge a complaint with the Controller who shall, after holding summary enquiry in the prescribed manner, pass such order as he may deem fit.

18. **Procedure and powers of Controller.**—(1) The Controller shall not refuse registration, or cancel or suspend the licence, of a hotel or restaurant, except after holding summary enquiry in the prescribed manner.

(2) For the purpose of holding an enquiry under sub-section (1) or any other enquiry which he may deem necessary for the purposes of this Act, the Controller shall have the same powers as are vested in a civil court in respect of—

(a) proof of facts by affidavit ;

(b) summoning and enforcing the attendance of any person and examining him on oath ;

(c) compelling the production of documents and other material evidence ; and

(d) issuing commissions for the examination of witnesses.

19. **Additional powers of Controller.**—For the purposes of this Act, the Controller may—

(i) call for such information, reports, or returns from an owner or a manager as may be necessary for satisfying himself that the provisions of this Act, the rules and orders made thereunder are being duly complied with ;

(ii) require an owner or a manager to produce before himself or an officer designated by him for the purpose any book of account, document or other papers in his possession or power which contain or are believed to contain information relating to the hotel or restaurant of which he is the owner or manager ;

(iii) require an owner or a manager to undertake through an agency qualified to do so scientific tests of water, food and other articles of human consumption at the cost of the owner, to determine their quality and conformity with the requirements of health and hygiene ;

(iv) declare the site of any restaurant not registered under this Act, a fit site for a restaurant and issue directive to the management of such a restaurant to improve, within a period of six months from the date of such order, the conditions, services and facilities at the restaurant to conform to the prescribed minimum criteria ;

(v) call for any other information relating to development of hotel industry.

20. **Apprenticeship scheme and training policy of employees.**—The Controller shall—

(i) ensure that apprentices in a hotel or restaurant do not exceed ten per cent of the employees in any specified trade ;

(ii) fix, with due regard to the salaries of the regularly employed staff, the stipend to be paid to an apprentice over and above the cost of his training and determine the duration of his apprenticeship ;

(iii) lay down the age limit, educational qualifications, standards of physical fitness and psychological and mental health of apprentices ;

(iv) direct the programming for training various categories of employees of hotels and restaurants at a recognised vocational institution at the various specialised courses run thereat so that the percentage of qualified trained staff in a hotel or restaurant attains, within a reasonable time, the minimum standard as may be determined by the Controller ; and

(v) lay down the maximum percentage of untrained staff that may be employed at a hotel or restaurant at any time.

21. **Provision of medical facilities.**—(1) The owner of every hotel registered and licenced under this Act shall provide the following medical facilities for guests, namely :—

(i) One and two star hotels :

(a) A doctor on call available in close proximity of the hotel premises.

(b). First aid equipment and a reasonable stock of life saving drugs.

(c) Two employees trained and qualified in first aid.

(d) Ensure availability of an ambulance, van or car to rush patients to a hospital in emergencies.

(ii) Three star hotels :

(a) As in sub-clauses (a) to (c) in clause (i).

(b) A drug store or chemist's shop with twenty-four hours' service, if not existing in close proximity.

(c) An ambulance or van.

(iii) Four and five star hotels :

(a) A doctor on call available in close proximity of the hotel premises.

(b) A separate consulting room with reasonable stock of life saving drugs and first aid equipment.

(c) Four employees trained and qualified in first aid.

(d) An ambulance or a van convertible into an ambulance in emergency.

(e) A drug or chemist's shop with twenty-four hours' service, if not existing in close proximity.

(2) The management of a hotel shall take all possible care and provide all necessary medical aid without any loss of time to a guest suffering from any serious attack, including heart attack and haemorrhage, or an accident.

22. **Offences and Penalties.**—(1) Any owner who fails to apply for registration within the time specified in section 5 shall be liable to pay to the Controller a penalty of such sum not exceeding five thousand rupees as the Controller may impose and, in the case of a continuing failure, an additional penalty which may extend to one thousand rupees for every day after the first during which he has persisted in the failure.

(2) Any owner or manager who serves any food or beverage which is injurious to health, or who does not take sufficient care to ensure protection of food and beverage against contamination through flies or in any other way, or serves any food or beverage in unclean or contaminated utensils, shall be liable to pay to the Controller a penalty of such sum not exceeding one thousand rupees as the Controller may impose.

(3) Any owner or manager who fails to comply with any order passed or direction given under the provisions of this Act by the Controller or any other authority prescribed in this behalf shall be liable to pay to the Controller a penalty of such sum not exceeding one thousand rupees as the Controller may impose.

(4) Any owner or manager who charges a guest or customer any amount in excess of the fair rates shall, in addition to refund such guest or customer the amount charged in excess of fair rates, be also liable to pay to the Controller a penalty of such sum not exceeding one thousand rupees as the Controller may impose for such excess charging for the first time and, in the case of any such subsequent excess charging, a penalty not exceeding two thousand rupees.

(5) If a restaurant not registered under this Act fails to carry out the directive issued under clause (iv) of section 19 within the period specified therein, the Controller may suspend the operation of such restaurant and may also impose a penalty of such sum not exceeding five thousand rupees as the Controller may impose on the owner of such restaurant.

(6) If the owner or manager of a hotel or restaurant not licensed under this Act advertises it as a hotel or restaurant, or in any manner whatsoever uses the star sign, he shall be liable to pay to the Controller a penalty of such sum not exceeding one thousand rupees as the Controller may impose and, in the case of his continuing to so advertise or use the star sign, an additional penalty which may extend to two hundred rupees for every day after the first during which he so continues or uses star sign.

(7) Any owner who fails to comply with the provisions of section 21 shall be liable to one or more of the following penalties, namely :—

(a) penalty of such sum not exceeding two thousand rupees as the Controller may impose ;

(b) forfeiture of licence ; and

(c) cancellation of registration.

23. **Contravention by companies, etc.**—If the person contravening, or failing to comply with, any provision of this Act or any rule, order or direction made or issued thereunder is a company or other body corporate, every director, secretary or other officer or agent thereof, unless he proves that the contravention or failure took place without his knowledge or that he exercised due diligence to prevent its taking place, shall be liable to the penalty provided for such contravention or failure.

24. **Mode of recovery.**—Any sum imposed as penalty under this Act shall be recoverable as an arrear of land revenue.

25. **Appeal and Revision.**—Any person aggrieved by an order under this Act may, within thirty days of the date of the order, prefer an appeal to—

(a) the Deputy Controller, where such order has been passed by an Assistant Controller ;

(b) the Controller, where such order, not being an order passed in appeal under clause (a), has been passed by a Deputy Controller ;

(c) the prescribed appellate authority, where such order, not being an order passed in appeal under clause (b), has been passed by the Controller.

(2) The Federal Government may of its own motion, or on the application of any owner or manager aggrieved by an order passed under sub-section (1) within the prescribed time and in the prescribed manner, pass such order in relation thereto as it thinks fit :

Provided that no order against an owner or a manager shall be passed unless he has been given an opportunity of showing cause against it and of being heard.

26. **Indemnity.**—No suit, prosecution or other legal proceeding shall lie against the Federal Government, the Controller, a Deputy Controller, an Assistant Controller, the Provincial Government, any officer or authority subordinate to the Federal Government or a Provincial Government, or a member of the Committee in respect of anything which is in good faith done or intended to be done under this Act.

27. **Power to exempt.**—The Federal Government may, by notification in the official Gazette, exempt any hotel or restaurant from the operation of all or any

of the provisions of this Act for such period, and on such conditions, if any, as may be specified in the notification.

28. **Delegation of powers.**—(1) The Federal Government may, by notification in the official Gazette, direct that all or any of its powers under this Act shall, subject to such conditions, if any, as may be specified in the notification, be exercised—

(a) by any officer or authority subordinate to the Federal Government; or

(b) by any Provincial Government or by any officer or authority subordinate to such Government.

(2) A Provincial Government may, with the approval of the Federal Government, constitute a Hotels and Restaurants Committee to perform, within the Province, all or any of the functions of the Committee.

29. **Power to make rules.**—(1) The Federal Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality to the foregoing power, such rules may provide for—

(a) fixation and revision of criteria for the registration and classification of hotels and restaurants;

(b) lowering or altering the classification of a hotel, if in the opinion of the Controller it fails to maintain the prescribed standard of classification already assigned;

(c) the manner of issuance of "Sign Shields" including star classification of hotels and restaurants for display in hotels and restaurants at conspicuous places;

(d) principles governing fair rates;

(e) determining the format, content and display of fair rates for hotels and restaurants:

(f) matters in relation to which the Committee may render aid and advice:

(g) meetings of the Committee;

(h) fixation of fees for registration and licences;

(i) form of a certificate of medical fitness referred to in section 5 and the time at which it shall be submitted to the Controller;

(j) manner of holding summary enquiry; and

(k) any other matter which is to be or may be prescribed.

30. **Other laws not applicable.**—Nothing contained in the Sarais Act, 1867 (XXII of 1867), or the Karachi Hotels and Lodging-Houses (Control) Act, 1950 (LXV of 1950), shall apply to a hotel or restaurant to which this Act for the time being applies.

31. **Repeal.**—The Pakistan Hotels and Restaurants Ordinance, 1976 (XXXIX of 1976), is hereby repealed.

ACT No. LXXXII OF 1976

An Act to provide for the declaration of the territorial waters and maritime zones of Pakistan

WHEREAS it is expedient to provide for the declaration of the territorial waters and maritime zones of Pakistan and for matters connected therewith;

It is hereby enacted as follows:—

1. **Short title and commencement.**—(1) This Act may be called the Territorial Waters and Maritime Zones Act, 1976.

(2) It shall come into force at once.

2 **Territorial waters.**—(1) The sovereignty of Pakistan extends and has always extended to the territorial waters of Pakistan, hereinafter referred to as the territorial waters, as well as to the air space over, and the bed and sub-soil of, such waters.

(2) The limit of the territorial waters is twelve nautical miles beyond the land territory and internal waters of Pakistan measured from the baseline.

(3) The baseline from which such limit shall be measured and the waters on the landward side of which shall form part of the internal waters of Pakistan shall be specified by the Federal Government by notification in the official Gazette.

(4) Where a single island, rock or a composite group thereof constituting a part of the territory of Pakistan is situated off the main coast, the baseline referred to in sub-section (3) shall be drawn along the outer seaward limits of such island, rock or composite group.

3. **Use of territorial waters by foreign ships.**—(1) Without prejudice to the provisions of any other law for the time being in force and subject to the provisions of sub-section (2) and sub-section (3), all foreign ships shall enjoy the right of innocent passage through the territorial waters.

Explanation.—For the purposes of this section, passage is innocent so long as it is not prejudicial to the peace, good order or security of Pakistan.

(2) Foreign warships, including submarines and other under water vehicles and Foreign Military Aircraft may enter or pass through the territorial waters and the air space over such waters with the prior permission of the Federal Government:

Provided that submarines and other under water vehicles shall navigate on the surface and show their flag while passing through such waters.

(3) Foreign super ankers, nuclear powered ships and ships carrying nuclear or other inherently dangerous or noxious substances or materials may enter or pass through the territorial waters after giving prior notice to the Federal Government.

(4) The Federal Government may, if satisfied that it is necessary so to do in the interest of the peace, good order or security of Pakistan or any part thereof, suspend, by notification in the official Gazette, subject to such exceptions and qualifications, if any, as may be specified in the notification, the entry of all or any class of foreign ships into such area of the territorial waters as may be specified in the notification.

4. **Contiguous Zone.**—(1) The Contiguous Zone of Pakistan, hereinafter referred to as the Contiguous Zone, is an area adjacent to and beyond the territorial waters and extending seawards to a line twenty-four nautical miles measured from the baseline declared under sub-section (3) of section 2.

(2) The Federal Government may exercise such powers and take such measures in or in respect of the Contiguous Zone as it may consider necessary to prevent and punish the contravention of, and an attempt to contravene, any law in force in Pakistan relating to—

(a) the security of Pakistan ;

(b) immigration and sanitation ; and

(c) customs and other fiscal matters.

(3) The Federal Government may, by notification in the official Gazette,—

(a) extend to the Contiguous Zone any law relating to any matter referred to in clause (a) or clause (b) or clause (c) of sub-section (2), for the time being in force in Pakistan or any part thereof, with such modifications, if any, as may be specified in the notification ; and

(b) make such provisions as it may consider necessary for facilitating the enforcement of such law and any law so extended shall have effect as if the Contiguous Zone formed part of the territory of Pakistan.

5. **Continental Shelf.**—(1) The Continental Shelf of Pakistan, hereinafter referred to as the Continental Shelf, shall comprise the seabed and sub-soil of the submarine areas that extend beyond the limit of the territorial waters of Pakistan throughout the natural prolongation of the land territory of Pakistan to the outer edge of the continental margin or, where the outer edge of the continental margin does not extend up to a distance of two hundred nautical miles from the baseline declared under sub-section (3) of section 2, up to that distance.

(2) Pakistan has, and always had, full and exclusive sovereign rights in respect of its Continental Shelf, including—

(a) exclusive sovereign rights for the purpose of exploration, development exploitation, conservation and management of all resources, both living and non-living ;

(b) exclusive rights and jurisdiction to authorize, regulate and control scientific research ;

(c) exclusive rights and jurisdiction for the construction, maintenance or operation of artificial islands, off-shore terminals, installations and other structures and devices necessary for the exploration and exploitation of the resources of the Continental Shelf, for the convenience of shipping or for any other purpose ; and

(d) exclusive jurisdiction to preserve and protect the marine environment and to prevent and control marine pollution.

(3) No person, including a foreign Government, shall, except under, and in accordance with the terms of, any agreement with the Federal Government of a licence or letter of authority granted by the Federal Governnment, explore the Continental Shelf or exploit its resources or carry out any search or excavation or conduct any research within the Continental Shelf or drill therein or construct, maintain or operate therein for any purpose whatsoever any artificial islands, off-shore terminal, installation or other structure or device.

(4) The Federal Government may, by notification in the official Gazette,—

(a) declare any area of the Continental Shelf and its superjacent waters to be a designated area ; and

(b) make such provisions as it may deem necessary with respect to all or any of the following matters, namely :—

(i) the exploration, development, exploitation and protection of the resources of the Continental Shelf within such designated area ;

(ii) the safety and protection of artificial islands, off-shore terminals, installations and other structures and devices in such designated area ;

(iii) the protection of marine environment of such designated area ;

(iv) customs and other fiscal matters in relation to such designated area ; and

(v) the regulation of entry into and passage through the designated area of foreign ships by the establishment of fairways, sealanes, traffic separation schemes or any other mode of ensuring freedom of navigation which is not prejudicial to the interests of Pakistan.

(5) The Federal Government may, by notification in the official Gazette,—

(a) extend to the whole or any part of the Continental Shelf any law for the time being in force in Pakistan or any part thereof, with such modifications, if any, as may be specified in the notification ; and

(b) make such provisions as it may consider necessary for facilitating the enforcement of such law ;

and any law so extended shall have effect as if the Continental Shelf or, as the case may be, the part thereof to which it has been extended formed part of the territory of Pakistan.

(6) Subject to any measures that may be necessary for protecting the interests of Pakistan, and without prejudice to the provisions of sub-section (2), the Federal Government may not impede the laying or maintenance of submarine cables or pipelines on the seabed of the Continental Shelf by foreign States :

Provided that the consent of the Federal Government shall be necessary for the delineation of the course for the laying of such cables or pipelines.

6. **Exclusive Economic Zone.**—(1) The Exclusive Economic Zone of Pakistan, hereinafter referred to as the Exclusive Economic Zone, is an area beyond and adjacent to the territorial waters the limit of which is two hundred nautical miles from the baseline declared under sub-section (3) of section 2.

(2) In the Exclusive Economic Zone, its bed and sub-soil and the superjacent waters, Pakistan has—

(a) exclusive sovereign rights for the purpose of exploration, development, exploitation, conservation and management of all resources, both living and non-living, as well as for producing energy from tides, winds, currents and the sun.

(b) exclusive rights and jurisdiction for the construction, maintenance or operation of artificial islands, off-shore terminals, installations and other structures and devices necessary for the exploration and exploitation of the resources of the Zone or for the convenience of shipping or for any other purpose ;

(c) exclusive rights and jurisdiction to authorize, regulate and control scientific research ;

(d) exclusive jurisdiction to preserve and protect the marine environment and to prevent and control marine pollution ; and

(e) such other rights as are recognized by international law.

(3) No person, including a foreign Government, shall, except under, and in accordance with the terms of, any agreement with the Federal Government or a licence or letter of authority granted by the Federal Government, explore or exploit any resources of the Exclusive Economic Zone or carry out any search or excavation or conduct any research within the Exclusive Economic Zone or drill therein or construct, maintain or operate therein for any purpose whatsoever any artificial island, off-shore terminal, installation or other structure or device :

Provided that fishing in the Exclusive Economic Zone shall be regulated by the provisions of the Exclusive Fishery Zone (Regulation of Fishing) Act, 1975 (XXII of 1975).

(4) The Federal Government may, by notification in the official Gazette,—

(a) declare any area of the Exclusive Economic Zone to be a designated area ; and

(b) make such provisions as it may deem necessary with respect to all or any of the following matters, namely :—

(i) the exploration, development, exploitation and protection of the resources of such designated area ;

(ii) other activities for the economic exploitation and exploration of such designated area, such as the production of energy from tides, winds, currents and the sun ;

(iii) the safety and protection of artificial islands, off-shore terminals, installations and other structures and devices in such designated area ;

(iv) the protection of marine environment of such designated area ;

(v) customs and other fiscal matters in relation to such designated area ; and

(vi) the regulation of entry into and passage through the designated area of foreign ships by the establishment of fairways, sealanes, traffic separation schemes or any other mode of ensuring freedom of navigation which is not prejudicial to the interest of Pakistan.

(5) The Federal Government may, by notification in the official Gazette,—

(a) extend to the whole or any part of the Exclusive Economic Zone any law for the time being in force in Pakistan or any part thereof subject to such modifications as may be specified in the notification; and

(b) make such provisions as it may consider necessary for facilitating the enforcement of such law, and any law so extended shall have effect as if the Exclusive Economic Zone or, as the case may be, the part thereof to which it has been extended formed part of the territory of Pakistan.

(6) The provisions of sub-section (6) of section 5 shall apply in relation to the laying or maintenance of submarine cables or pipelines on the seabed of the Exclusive Economic Zone as they apply in relation to the laying or maintenance of submarine cables or pipelines on the seabed of the Continental Shelf.

(7) In the Exclusive Economic Zone and the air space over the Zone, ships and aircraft of all States shall, subject to the exercise by Pakistan of its rights within the Zone, enjoy freedom of navigation and overflight.

7. **Historic waters.**—(1) The Federal Government may, by notification in the official Gazette, specify the limits of such waters adjacent to its land territory as are the historic waters of Pakistan.

(2) The sovereignty of Pakistan extends, and has always extended, to the historic waters of Pakistan and to the seabed and subsoil underlying, and the air space over, such waters.

8. **Maritime boundaries between Pakistan and States having coasts opposite or adjacent to those of Pakistan.**—(1) Notwithstanding anything contained in any other provision of this Act,—

(a) the delimitation of the territorial waters between Pakistan and any other state whose coast is opposite or adjacent to that of Pakistan shall be determined by agreement between Pakistan and such state and pending such agreement and unless any other provisional arrangements are agreed to between them, the boundary with regard to the territorial waters between Pakistan and such state shall not extend beyond the line every point of which is equidistant from the baseline from which the breadth of the territorial waters of Pakistan and of such state is measured; and

(b) the delimitation of the Contiguous Zone, the Continental Shelf, the Exclusive Economic Zone and other maritime zones between Pakistan and any other state whose coast is opposite or adjacent to that of Pakistan shall be effected by agreement in accordance with equitable principles and taking account of all the relevant circumstances, and pending such agreement or a settlement Pakistan and such state shall make provisional arrangements taking into account the said principles for delimitation of the Contiguous Zone, the Continental Shelf, the Exclusive Economic Zone and other maritime zones.

(2) Every agreement referred to in clauses (a) and (b) of sub-section (1) shall, as soon as may be after it is entered into, be published in the official Gazette.

9. **Publication of charts.**—The Federal Government may cause the baseline referred to in sub-section (3) of section 2, the limits of the Territorial Waters, the Contiguous Zone, the Continental Shelf and the Exclusive Economic Zone and the maritime boundaries as settled by agreements referred to in section 8 to be published in charts.

10. **Offences.**—Whoever contravenes any provision of this Act or of any rule or notification made or issued thereunder shall, without prejudice to any other action which may be taken against such person under any other provision of this or of any other law, be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

11. **Offences by companies.**—(1) Where an offence punishable under section 10 has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to the company for, the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence punishable under section 10 has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purpose of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals ; and

(b) "director", in relation to a firm, means a partner in the firm.

12. **Place of trial.**—Any person committing an offence punishable under section 10 or under any of the laws extended under this Act may be tried for the offence in such place or places as the Federal Government may, by general or special order published in the official Gazette, direct in this behalf.

13. **Previous sanction of the Federal Government for prosecution.**—No prosecution shall be instituted against any person in respect of any offence punishable under section 10 or under any of the laws extended under this Act without the previous sanction of the Federal Government or such officer or authority as may be authorised by that Government by order in writing in this behalf.

14. **Power to make rules.**—(1) The Federal Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(a) regulation of the conduct of any person in the Territorial Waters, the Contiguous Zone, the Continental Shelf, the Exclusive Economic Zone or any other maritime zone of Pakistan ;

(b) regulation of the exploration, development, exploitation, conservation and management of the resources of the Continental Shelf ;

(c) regulation of the exploration, development, exploitation, conservation and management of the resources of the Exclusive Economic Zone ;

(d) regulation of the construction, maintenance and operation of artificial islands, off-shore terminals, installations and other structures and devices referred to in section 5 and section 6 ;

(e) preservation and protection of the marine environment and prevention and control of marine pollution ;

(f) authorisation, regulation and control of the conduct of scientific research ;

(g) fees in relation to licences and letters of authority referred to in sub-section (3) of section 5 and sub-section (3) of section 6 or for any other purpose ; or

(h) any matter incidental to any of the matters specified in clauses (a) to (g).

ACT NO. LXXXIII OF 1976

An Act further to amend the Regulation of Mines and Oil-fields and Mineral Development (Government Control) Act, 1948

WHEREAS it is expedient further to amend the Regulation of Mines and Oil-fields and Mineral Development (Government Control) Act, 1948 (XXIV of 1948), for the purposes hereinafter appearing ;

It is hereby enacted as follows :—

1. **Short title and commencement.**—(1) This Act may be called the Regulation of Mines and Oil-fields and Mineral Development (Government Control) (Amendment) Act, 1976.

(2) It shall come into force at once.

2. **Insertion of new sections 3A and 3B, Act XXIV of 1948.**—In the Regulation of Mines and Oil-fields and Mineral Development (Government Control) Act, 1948 (XXIV of 1948), hereinafter referred to as the said Act, after section 3, the following new sections shall be inserted, namely :—

> "3A. **Production sharing agreement.**—(1) Notwithstanding anything contained in any other law or rules for the time being in force, the President may enter into an agreement with any company, whether incorporated in Pakistan or outside Pakistan, for the grant of a licence or lease to explore, prospect and mine petroleum on the basis of a Production Sharing Agreement and on such terms and conditions as may be agreed upon between the Federal Government and the company.

(2) Notwithstanding anything contained in the Income-tax Act, 1922 (XI of 1922), a company with which an agreement such as is referred to in sub-section (1) is for the time being in force shall not be liable to pay tax on its income, profits or gains.

3B. **Concessions to petroleum exploration companies.**—(1) Notwithstanding anything contained in any other law for the time being in force, every company, whether incorporated in Pakistan or outside Pakistan, to whom a licence or a lease to explore, prospect and mine petroleum is granted under this Act, not being a company such as is referred to in sub-section (1) of section 3A, shall be entitled to the concessions specified in the Schedule in addition to any concessions for the time being admissible to it under any other law or the rules made under this Act.

(2) The Federal Government may, by notification in the official Gazette, amend the Schedule so as to add any concessions thereto or to improve any concessions therein. ".

3. **Addition of Schedule, Act XXIV of 1948.**—In the said Act, after section 6, the following Schedule shall be added, namely :—

" SCHEDULE

(*See* Section 3B)

1. Any provisions of the rules made under section 2, or of any amendment in the Income-tax Act, 1922 (XI of 1922), hereinafter referred to as the Act, made after the effective date of an agreement for the grant of a licence or lease to explore, prospect or mine petroleum, which are inconsistent with the terms of the agreement, shall not apply to the extent of such inconsistency to a company which is a party to the agreement.

2. Royalty shall be charged at a fixed rate of 12½ per cent of the well-head value and shall form part of the sum of payments to the Federal Government and taxes on income which shall neither be more than 55 per cent nor less than 50 per cent of the profits or gains before deduction of " payments to the Government " referred to in sub-rule (2) of rule 4 of the Second Schedule to the Act, hereinafter referred to as the said Schedule.

3. Before commencement of commercial production of petroleum, any expenditure on searching for, or on discovering and testing, a petroleum deposit, or on winning access thereto, allocable to a surrendered area and to the drilling of a dry hole, shall be deemed to be lost at the time of the surrender of the area or the completion of the dry hole, as the case may be, for the purpose of the Second Schedule to the Act. Such lost expenditure shall be allowed in one of the two ways mentioned in sub-rule (1) of rule 2 of the said Schedule.

4. In addition to the net profits, the amount charged in annual financial accounts on account of additional allowance admissible under rule 3 of the Second Schedule to the Act, and depreciation at such rate as may be agreed upon between the President and a licensee or lessee, which is a company incorporated outside Pakistan, including its assignee, shall be allowed to be remitted and retained abroad, provided that the aggregate amount of such additional allowance and depreciation does not exceed an agreed percentage of the investment in assets on which depreciation is charged.

5. The value of crude oil for purposes of royalty and income-tax shall be calculated on the basis of the price realised in transactions with purchasers other

than the subsidiaries or affiliates of the licensee or lessee, including its assignee, and in case of transactions with a subsidiary or an affiliate, the value shall be calculated on such basis as may be agreed upon between the Federal Government and the licensee or lessee.

6. The income derived by the licensee or lessee from the use of any surplus capacity of its pipeline by any other licensee or lessee shall be assessed on the same basis as its income from petroleum produced by it from its concession area.

7. A licensee or lessee which is a company incorporated outside Pakistan, including its assignee, shall be allowed to export its share of petroleum after meeting such portion of the internal requirement of Pakistan as may be agreed upon.

8. Sale proceeds of the share of petroleum exported by a licensee or lessee which is a company incorporated outside Pakistan, including its assignee, shall be allowed to be retained abroad and to be used freely by it, subject to the condition that it shall bring back such portion of these proceeds as is required to meet its obligations under the lease.

9. No customs-duty or sales tax shall be levied on the import of machinery and equipment specified in the agreement for the purposes of exploration and drilling prior to commercial discovery.

10. A concessionary consolidated rate of 5½ per cent customs-duty *ad valorem*, including sales tax and any surcharge related thereto, shall be charged on import of machinery and equipment required for development of each commercial discovery until twenty-four months from the effective date of the mining lease granted with respect to each such discovery, and thereafter the normal rate of customs-duty, sales tax and any other duty shall be applicable.

11. Foreign nationals employed by a licensee or lessee or its contractor shall be allowed to import commissary goods free of customs-duty and sales tax to the extent of $ 550 per annum, subject to the condition that the same shall not be sold or otherwise disposed of in Pakistan.

12. Foreign nationals employed by a licensee or lessee or its contractor shall be allowed to import used and *bona fide* personal and house-hold effects, excluding motor vehicles, free of customs-duty and sales tax subject to the condition that the same shall not be sold or otherwise disposed of in Pakistan.

13. Foreign nationals employed by a licensee or lessee or its contractor shall not be charged income-tax for a period of three years from the date of their arrival in Pakistan in accordance with, and subject to the provisions of, clauses (xii) and (xiiia) of sub-section (3) of section 4 of the Act as in force on the effective date of the agreement with the licensee or lessee.

14. The data in respect of areas surrendered by a previous licensee or lessee shall be made available for inspection to a prospective licensee free of charge.

15. Initial participation by the Federal Government in exploration shall be to such extent as may be agreed upon between the Federal Government and the licensee. ".

4. **Repeal.**—The Regulation of Mines and Oil-fields and Mineral Development (Government Control) (Amendment) Ordinance, 1976 (XLIV of 1976), is hereby repealed.

ACT No. LXXXIV OF 1976

An Act further to amend the Constitution of the Islamic Republic of Pakistan

WHEREAS it is expedient further to amend the Constitution of the Islamic Republic of Pakistan for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. **Short title and commencement.**—(1) This Act may be called the Constitution (Sixth Amendment) Act, 1976.

(2) It shall come into force at once.

2. **Amendment of Article 179 of the Constitution.**—In the Constitution of the Islamic Republic of Pakistan, hereinafter referred to as the Constitution, in Article 179, after clause (5), the following new clause shall be added, namely:—

> "(6) Notwithstanding anything contained in clause (1) or clause (2), a Chief Justice of the Supreme Court who attains the age of sixty-five years before he has held that office for a term of five years may continue to hold that office until he has completed that term.".

3. **Amendment of Article 195 of the Constitution.**—In the Constitution, in Article 195, after clause (5), the following new clause shall be added, namely:—

> "(6) Notwithstanding anything contained in clause (1) or clause (2), a Chief Justice of a High Court who attains the age of sixty-two years before he has held that office for a term of four years may continue to hold that office until he has completed that term.".

4. **Amendment of Article 246 of the Constitution.**—In the Constitution, in Article 246,—

(a) in paragraph (b), in sub-paragraph (i),—

  (i) after the brackets, words and comma "(which includes Kalam),", the words and comma "the Tribal Area in Kohistan district," shall be inserted and shall be deemed to have been so inserted on the first day of October, 1976; and

  (ii) for the word "Hazara" the word "Mansehra" shall be substituted and shall be deemed to have been so substituted on the first day of October, 1976; and

(b) in paragraph (c), for sub-paragraph (v) the following shall be substituted and shall be deemed to have been so substituted on the first day of December, 1973, namely:—

"(v) Bajaur Agency;

(va) Orakzai Agency;".

5. **Amendment of Article 260 of the Constitution.**—In the Constitution, in Article 260, in the definition of "service of Pakistan", after the words "Parliamentary Secretary", the commas and words ", Chairman or member of a law commission, Chairman or member of the Council of Islamic Ideology, Special Assistant to the Prime Minister, Adviser to the Prime Minister, Special Assistant to a Chief Minister, Adviser to a Chief Minister" shall be inserted.

ACT No. LXXXV OF 1976

An Act to provide for the conduct of elections to the National Assembly and the Provincial Assemblies

WHEREAS it is expedient to provide for the conduct of elections to the National Assembly and the Provincial Assemblies and to guard against corrupt and illegal practices and other offences at or in connection with such elections and for the determination of doubts and disputes arising out of or in connection with such elections, and other matters arising out of or connected therewith ;

It is hereby enacted as follows :—

CHAPTER I

PRELIMINARY

1. **Short title, extent, application and commencement.**—(1) This Act may be called the Representation of the People Act, 1976.

(2) It extends to the whole of Pakistan.

(3) It shall apply to the general elections to the National Assembly and the Provincial Assemblies to be held under the Constitution and to the bye-elections to be held to the seats in those Assemblies falling vacant after the general elections.

(4) It shall come into force at once.

2. **Definitions.**—In this Act, unless there is anything repugnant in the subject or context,—

(i) " Article " means Article of the Constitution ;

(ii) " Assembly " means the National Assembly or a Provincial Assembly for a Province ;

(iii) " ballot paper account " means ballot paper account prepared under sub-section (10) of section 38 ;

(iv) " candidate " means a person proposed as a candidate for, or seeking election as a member ;

(v) " Commission " means the Election Commission constituted under Article 218 ;

(vi) " Commissioner " means the Chief Election Commissioner appointed under the Constitution and includes—

  (i) the person continuing in the office of Chief Election Commissioner by virtue of Article 275 ; and

  (ii) a Judge of the Supreme Court nominated under Article 217 to act as Chief Election Commissioner ;

(vii) " constituency " means a constituency delimited under the Delimitation of Constituencies Act, 1974 (XXXIV of 1974) ;

(viii) " contesting candidate " means a validly nominated candidate who has not withdrawn his candidature ;

(ix) " election " means election to a seat of a member held under this Act ;

(x) " election agent " means an election agent appointed by a candidate under section 22 and, where no such appointment is made, the candidate acting as his own election agent ;

(xi) " election petition " means an election petition made under section 52 ;

(xii) " elector ", in relation to a constituency, means a person who is enrolled on the electoral roll for any electoral area in that constituency ;

(xiii) " electoral roll " means an electoral roll prepared, revised or corrected under the Electoral Rolls Act, 1974 (XXI of 1974) ;

(xiv) " member " means member of an Assembly ;

(xv) " nomination day " means the day appointed under section 11 for the nomination of candidates ;

(xvi) " polling agent " means a polling agent appointed under section 23 ;

(xvii) " polling day " means the day on which poll is taken for an election ;

(xviii) " polling officer " means a polling officer appointed under section 9 for a polling station ;

(xix) " prescribed " means prescribed by rules made under this Act ;

(xx) " Presiding Officer " means a Presiding Officer appointed under section 9 for a polling station and includes an Assistant Presiding Officer exercising the powers and performing the functions of Presiding Officer ;

(xxi) " returned candidate " means a candidate who has been declared elected as a member under this Act ;

(xxii) " Returning Officer " means a Returning Officer appointed under section 7 and includes an Assistant Returning Officer exercising the powers and performing the functions of Returning Officer ;

(xxiii) " scrutiny day " means the day appointed under section 11 for the scrutiny of nomination papers ;

(xxiv) " spoilt ballot paper " means a ballot paper which has been spoiled and is returned to the Presiding Officer under section 36 ;

(xxv) " Tribunal " means an Election Tribunal appointed under section 57 for the trial of election petitions ;

(xxvi) " validly nominated candidate " means a candidate whose nomination has been accepted ; and

(xxvii) " withdrawal day " means a day appointed under section 11 on or before which candidature may be withdrawn.

CHAPTER II

ELECTION COMMISSION

3. **Procedure of the Commission.**—(1) Subject to the provisions of this section, the Commission shall regulate its procedure.

(2) If, upon any matter requiring a decision of the Commission, there is difference of opinion among its members, the opinion of the majority shall prevail and the decision of the Commission shall be expressed in terms of the opinion of the majority.

(3) The Commission may exercise its powers and perform its functions notwithstanding that there is a vacancy in the office of any one of its members or that any one of its members is, for any reason, unable to attend its proceedings and the decision of the other two members shall have the effect of the decision of the Commission :

Provided that, in the event of a difference of opinion between the two members attending the proceedings of the Commission, the matter shall be placed for decision before the Commission.

4. **Delegation of powers, etc.**—The Commission may authorise its Chairman or any of its members or any of the officers of the Commission to exercise and perform all or any of its powers and functions under this Act.

5. **Assistance to the Commission.**—(1) All executive authorities in the Federation and in the Provinces shall render such assistance to the Commissioner and the Commission in the discharge of his or their functions as may be required of them by the Commissioner or the Commission.

(2) The Commissioner or the Commission may require any person or authority to perform such functions or render such assistance for the purposes of this Act as he or it may direct.

6. **Power to requisition property.**—(1) The Provincial Government or an officer authorised by it in this behalf may, upon a request made in this behalf by the Commission, by order in writing, requisition any such vehicle, vessel or animal as is needed or is likely to be needed for the purpose of transporting to and from any polling station ballot boxes or other election material or any officer or other person engaged for the performance of any duties in connection with the election :

Provided that no vehicle, vessel or animal which is being used by a candidate or his election agent for any purpose connected with the election of such candidate shall be so requisitioned.

(2) Any person authorised in this behalf by the Provincial Government may take possession of any vehicle, vessel or animal requisitioned under sub-section (1) and may for that purpose use such force, including police force, as may be reasonably necessary.

(3) Where any vehicle, vessel or animal is requisitioned under sub-section (1), there shall be paid to the owner thereof compensation the amount of which shall be determined by the Provincial Government or the officer requisitioning the vehicle, vessel or animal on the basis of the fares and rates prevailing in the locality for its hire :

Provided that, where the owner of the vehicle, vessel or animal, being aggrieved by the amount of compensation so determined makes an application to the Provincial Government within a period of thirty days from the date the amount has been determined for the matter being referred to an arbitrator, the amount of compensation to be paid shall be such as the arbitrator appointed in this behalf by the Provincial Government may determine.

CHAPTER III

APPOINTMENT OF RETURNING OFFICER, ETC.

7. **Appointment of Returning Officer, etc.**—(1) The Commission shall appoint, from amongst the officers of the Federal Government, Provincial Governments, corporations controlled by any such Government and local authorities, a Returning Officer for each constituency for the purpose of election of a member for that constituency :

Provided that a person may be appointed as Returning Officer for two or more constituencies.

(2) The Commission may appoint, from amongst the Officers of the Federal Government, Provincial Governments, corporations controlled by any such Government and local authorities, as many Assistant Returning Officers as may be necessary.

(3) An Assistant Returning Officer shall assist the Returning Officer in the performance of his functions under this Act and may, subject to any condition imposed by the Commission, exercise and perform, under the control of the Returning Officer, the powers and functions of the Returning Officer.

(4) It shall be the duty of a Returning Officer to do all such acts and things as may be necessary for effectively conducting an election in accordance with the provisions of this Act and the rules.

8. **Polling stations.**—(1) The Returning Officer shall, before such time as the Commission may fix, submit to the Commission a list of polling stations he proposes to provide in a constituency for the purpose of election of a member for that constituency.

(2) The Commission may make such alterations in the list of polling stations submitted under sub-section (1) as it deems necessary and shall, at least fifteen days before the polling day, publish in the official Gazette the final list of polling stations specifying the electoral area the electors whereof will be entitled to vote at each polling station.

(3) The Returning Officer shall establish in each constituency polling stations according to the final list published under sub-section (2).

(4) No polling station shall be located in any premises which belong to, or are under the control of, any candidate.

9. **Presiding Officers and polling officers.**—(1) A Returning Officer shall appoint for each polling station a Presiding Officer and such number of Assistant Presiding Officers and polling officers to assist the Presiding Officer as the Returning Officer may consider necessary :

Provided that a person who is, or has at any time been, in the employment of any candidate shall not be appointed as a Presiding Officer, Assistant Presiding Officer or polling officer.

(2) A list of such Presiding Officers and polling officers shall be submitted to the Commission at least fifteen days before the polling day for its approval and no change in the personnel shall be made except with the approval of the Commission.

(3) A Presiding Officer shall conduct the poll in accordance with the provisions of this Act and the rules, shall be responsible for maintaining order at the polling station and shall report to the Returning Officer any fact or incident which may, in his opinion, affect the fairness of the poll :

Provided that, during the course of the poll, the Presiding Officer may entrust such of his functions as may be specified by him to any Assistant Presiding Officer and it shall be the duty of such Assistant Presiding Officer to perform the functions so entrusted.

(4) The Returning Officer shall authorise one of the Assistant Presiding Officer to act in place of the Presiding Officer if the Presiding Officer is, at any time during the poll, by reason of illness or other cause, not present at the polling station, or is unable to perform his functions ; and any absence of the Presiding Officer, and the reason therefor, shall, as soon as possible after the close of the poll, be reported to the Returning Officer.

(5) The Returning Officer may, at any time during the poll, for reasons to be recorded in writing, suspend any Presiding Officer, Assistant Presiding Officer or polling officer and make such arrangements as he may consider necessary for the performance of the functions of the officer so suspended.

10. **Supply of electoral rolls.**—(1) The Commission shall provide the Returning Officer for each constituency with copies of electoral rolls for all the electoral areas within that constituency.

(2) The Returning Officer shall provide the Presiding Officer of each polling station with copies of electoral rolls containing the names of the electors entitled to vote at that polling station.

CHAPTER IV

CONDUCT OF ELECTIONS

11. **Notification for election.**—(1) For the purpose of holding general elections to an Assembly, the Commission shall, by notification in the official Gazette, call upon the electors to elect a member from each constituency :

Provided that, in the case of general elections to be held to an Assembly following its dissolution, such notification shall be issued within two days of such dissolution becoming effective.

(2) In the notification issued under sub-section (1), the Commission shall, in relation to each constituency, specify—

(a) a day, at least six days after the publication of the notification, for the nomination of candidates ;

(b) a day, at least one day after the nomination day, for the scrutiny of nomination papers ;

(c) a day, at least nine days after the nomination day, on or before which candidature may be withdrawn ; and

(d) a day, at least forty-two days after the nomination day, for the taking of the poll.

(3) A Returning Officer shall, as soon as may be after the publication of a notification under sub-section (1), give public notice of the dates specified by the Commission in respect of the constituency or constituencies of which he is the Returning Officer ; and the public notice shall be published at some prominent place or places within the constituency to which it relates.

(4) A Returning Officer shall, by the public notice given under sub-section (3), invite nominations specifying the time by which and the place at which nomination papers shall be received by him.

12. **Nomination for election.**—(1) Any elector of a constituency may propose or second the name of any duly qualified person to be a member for that constituency.

(2) Every proposal shall be made by a separate nomination paper in the prescribed form which shall be signed by the proposer and the seconder and shall contain—

(a) a declaration signed by the candidate that he has consented to the nomination and that he is not subject to any disqualification for being elected as a member ; and

(b) a declaration signed by the proposer and the seconder that neither of them has subscribed to any other nomination paper, either as proposer or seconder.

(3) Every nomination paper shall be delivered by the candidate, or his proposer or seconder, to the Returning Officer or his nominee who shall acknowledge receipt of the nomination paper specifying the date and time of receipt :

Provided that a candidate may send his nomination paper by post so as to reach the Returning Officer within the time specified by him in the public notice given under sub-section (3) of section 11 :

Provided further that actual receipt of nomination paper by the Returning Officer within the time aforesaid shall be necessary and no presumption shall attach to its content or despatch by post.

(4) A person may be nominated in the same constituency by more than one nomination paper.

(5) If any person subscribes to the nomination of more than one candidate, all nomination papers to which he has subscribed shall be void.

(6) The Returning Officer shall assign a serial number to every nomination paper and endorse thereon the name of the person presenting it, and the date and time of its receipt, and inform such person of the time and place at which he shall hold scrutiny.

(7) The Returning Officer shall cause to be affixed at a conspicuous place in his office a notice of every nomination paper received by him containing the particulars of the candidate and the names of the proposer and seconder as shown in the nomination paper.

13. **Deposits.**—(1) Subject to the provisions of sub-section (2), no nomination paper delivered under section 12 shall be accepted unless—

(a) a sum of rupees—

(i) one thousand for election to a seat in the National Assembly, and

(ii) five hundred for election to a seat in the Provincial Assembly,

is deposited in cash by the candidate or by any person on his behalf at the time of its delivery; or

(b) it is accompanied by a bank draft for a sum as aforesaid drawn in favour of the Returning Officer or a receipt showing that a sum as aforesaid has been deposited by the candidate or by any person on his behalf at any branch of the National Bank of Pakistan or at a Government Treasury or sub-Treasury.

(2) Not more than one deposit under sub-section (1) shall be required in the case of a person who has been nominated as a candidate for the same seat by more than one nomination paper.

14. **Scrutiny.**—(1) The candidates, their election agents, proposers and seconders, and one other person authorised in this behalf of each candidate, may attend the scrutiny of nomination papers, and the Returning Officer shall give them reasonable opportunity for examining all nomination papers delivered to him under section 12.

(2) The Returning Officer shall, in the presence of the persons attending the scrutiny under sub-section (1), examine the nomination papers and decide any objection raised by any such person to any nomination.

(3) The Returning Officer may, either of his own motion or upon any objection, conduct such summary enquiry as he may think fit and may reject a nomination paper if he is satisfied that—

(a) the candidate is not qualified to be elected as a member;

(b) the proposer or the seconder is not qualified to subscribe to the nomination paper;

(c) any provision of section 12 or section 13 has not been complied with; or

(d) the signature of the proposer or the seconder is not genuine:

Provided that—

(i) the rejection of a nomination paper shall not invalidate the nomination of a candidate by any other valid nomination paper;

(ii) the Returning Officer shall not reject a nomination paper on the ground of any defect which is not of a substantial nature and may allow any such defect to be remedied forthwith, including an error in regard to the name, serial number in the electoral roll or other particulars of the candidate, his proposer or seconder so as to bring them in conformity with the corresponding entries in the electoral roll; and

(iii) the Returning Officer shall not enquire into the correctness or validity of any entry in the electoral roll.

(4) The Returning Officer shall endorse on each nomination paper his decision accepting or rejecting it and shall, in the case of rejection, record the reasons for rejection.

(5) An appeal against the decision of the Returning Officer under sub-section (4) rejecting a nomination paper shall lie to the Commission within two days of the scrutiny day and shall be decided by the Commission within three days of its being preferred ; and any order passed on such appeal shall be final.

(6) An appeal not disposed of within the period specified in sub-section (5) shall be deemed to have been rejected.

(7) Announcement of the day and time appointed for the hearing of an appeal under sub-section (5) over the radio or by publication in the press shall be deemed to be sufficient notice of the day and time so appointed.

15. **Publication of list of candidates.**—(1) The Returning Officer shall, after the scrutiny of nomination papers, prepare and publish in the prescribed manner a list of validly nominated candidates.

(2) In case an appeal against the decision of the Returning Officer is accepted by the Commission, the Returning Officer shall revise the list of validly nominated candidates accordingly.

(3) The Returning Officer shall, on the day following the day on or before which an appeal is to be decided under sub-section (5) of section 14, prepare and publish in the prescribed manner the revised list of validly nominated candidates.

16. **Withdrawal.**—(1) Any validly nominated candidate may, by notice in writing signed by him and delivered to the Returning Officer, on or before the withdrawal day either by such candidate in person or by his proposer or seconder authorised in this behalf in writing by such candidate, withdraw his candidature.

(2) A notice of withdrawal under sub-section (1) shall, in no circumstances, be open to recall or cancellation.

(3) On receiving a notice of withdrawal under sub-section (1), the Returning Officer shall, if he is satisfied that the signature on the notice is that of the candidate, cause a copy of the notice to be affixed at a conspicuous place in his office.

(4) The Returning Officer shall, within three days of the withdrawal day, prepare and publish in the prescribed manner a list of contesting candidates which shall, if there are more than one contesting candidates, indicate their respective symbols and supply a copy of the list to each of them.

17. **Retirement from election, etc.**—(1) A contesting candidate may retire from the contest by a notice in writing signed by him and delivered to the Returning Officer on any day not latter than four days before the polling day either by such candidate in person or by an agent authorised in this behalf in writing by such candidate.

(2) No person who has given a notice of retirement under sub-section (1) shall be allowed to cancel the notice.

(3) The Returning Officer shall upon receiving a notice of retirement under sub-section (1) cause a copy thereof to be affixed at some conspicuous place in his office and also to be published in such manner as he may think fit.

(4) A person in respect of whom a notice of retirement has been published under sub-section (3), shall be deemed to have withdrawn his candidature under section 16.

18. **Death of a candidate after nomination.**—(1) If a contesting candidate dies before the day for taking of the poll, the Returning Officer shall, by public notice, terminate the proceedings relating to that election.

(2) Where the proceedings relating to an election have been terminated under sub-section (1), fresh proceedings shall be commenced in accordance with the provisions of this Act, as if for a new election :

Provided that it shall not be necessary for the other contesting candidates to file fresh nomination papers or make a further deposit under section 13.

19. **Postponement, etc., under certain circumstances.**—(1) Where the proceedings relating to nomination, scrutiny or withdrawal cannot, for reasons beyond the control of the Returning Officer, to be recorded in writing, take place on the day appointed therefor he may postpone such proceedings.

(2) When the proceedings are postponed by the Returning Officer under sub-section (1), he shall inform the Commission of his having done so and the Commission shall, by notification in official Gazette, fix another day for the proceedings so postponed and, if necessary, also the day or days for any subsequent proceedings.

20. **Uncontested election.**—(1) Where, after scrutiny under section 14, there remains only one validly nominated candidate or where, after withdrawal under section 16 or retirement under section 17, there remains only one contesting candidate, the Returning Officer shall, by public notice, declare such candidate to be elected to the seat :

Provided that, if after scrutiny any candidate indicates that he intends to file an appeal under sub-section (5) of section 14 against the rejection of his nomination paper, no person shall be declared elected until the period appointed for filing such appeal has expired and no such appeal has been filed or, where an appeal is filed, until the disposal of such appeal.

(2) The Returning Officer shall submit to the Commission a return of the election in respect of which he has made a declaration under sub-section (1).

(3) The Commission shall, after such inquiry as it may deem necessary in any case, publish in the official Gazette the name of the candidate declared elected under sub-section (2).

21. **Contested election and allocation of symbols.**—(1) If there are more contesting candidates than one in respect of any constituency, the Returning Officer shall—

(a) allocate, subject to any direction of the Commission, one of the prescribed symbols to each contesting candidate ; and in so doing shall, so far as possible, have regard for any preference indicated by the candidate at the time of filing his nomination papers ;

(b) publish in such manner as the Commission may direct the names of contesting candidates arranged in the Urdu alphabetical order with English transliteration thereof below the name of each contesting candidate, specifying against each the symbol allocated to him ; and

(c) give public notice of the poll.

(2) The Returning Officer shall arrange to exhibit prominently at each polling station the name and symbols of each contesting candidate.

(3) A contesting candidate may, within three days of the publication of the list of contesting candidates alongwith the symbols, file an appeal to the Commission against the decision regarding the allocation of a symbol to him by the Returning Officer ; and the decision of the Commission on such an appeal shall be final.

(4) The Commission shall not entertain any appeal filed after the expiry of the period of three days referred to in sub-section (3).

22. **Election Agent.**—(1) A candidate may appoint a person qualified to be elected as a member to be his election agent.

(2) The appointment of an election agent may, at any time, be revoked in writing by the candidate and, when it is so revoked or the election agent dies, another person may be appointed by the candidate to be his election agent.

(3) When an election agent is appointed, the candidate shall send to the Returning Officer a notice in writing of the appointment containing the name, father's name and address of the election agent.

(4) Where no appointment of an election agent is made under this section, a candidate shall be deemed to be his own election agent and shall, so far as the circumstances permit, be subject to the provisions of this Act both as a condidate and as an election agent.

23. **Polling agent.**—(1) The contesting candidate or his election agent may, before the commencement of the poll, appoint for each polling station as many polling agents as may be prescribed and shall give notice thereof in writing to the Presiding Officer.

(2) The appointment of a polling agent under sub-section (1) may at any time be revoked by the candidate or his election agent and, when it is so revoked or the polling agent dies, another person may be appointed by the candidate or the election agent to be a polling agent ; and a notice of such appointment shall be given to the Presiding Officer.

24. **Absence of candidates, etc., not to invalidate acts, etc.**—Where any act or thing is authorised by this Act to be done in the presence of the candidate, an election agent or a polling agent, the failure of such person to attend at the time and place appointed for the purpose shall not invalidate any act or thing otherwise validly done.

25. **One day poll.**—Polls for a general election for an Assembly shall be held on the same day and the polls for National Assembly seats and the Provincial Assembly seats may be held simultaneously :

Provided that, if the Commission is satisfied that polls cannot take place in a constituency on account of a natural calamity or for any other reason beyond its control, the Commission may fix another day for holding the poll in that constituency.

26. **Hours of the poll.**—The Commission shall fix the hours, which shall not be less than eight, during which the poll shall be held and the Returning Officer shall give public notice of the hours so fixed and hold the poll accordingly.

27. **Stopping of the poll.**—(1) The Presiding Officer of a polling station shall stop the poll and inform the Returning Officer that he has done so if—

(a) the poll at the polling station is, at any time, so interrupted or obstructed for reasons beyond the control of the Presiding Officer that it cannot be resumed during the polling hours fixed under section 26 ; or

(b) any ballot box used at the polling station is unlawfully taken out of the custody of the Presiding Officer, or is accidentally or intentionally destroyed, or is lost or is damaged or tampered with to such an extent that the result of the poll at the polling station cannot be ascertained.

(2) Where a poll has been stopped under sub-section (1) the Returning Officer shall immediately report the circumstances to the Commission and the Commission shall direct a fresh poll at that polling station, unless it is satisfied that the result of the election has been determined by the polling that has already taken place at that polling station, taken with the result of the polling at other polling stations in the same constituency.

(3) Where the Commission orders a fresh poll under sub-section (2), it shall, by notification in the official Gazette,—

(a) appoint a day for a fresh poll and fix the place at which and the hours during which such fresh poll shall be taken ; and

(b) the Returning Officer shall give public notice of the day so appointed and the place and hours so fixed.

(4) At a fresh poll taken under sub-section (3) at a polling station, all electors entitled to vote there at shall be allowed to vote and no vote cast at the poll stopped under sub-section (1) shall be counted ; and the provisions of this Act and the rules and orders made thereunder shall apply to such fresh poll.

28. **Election by secret ballot.**—An election under this Act shall be decided by secret ballot and, subject to the provisions of section 29 every elector shall cast his vote by inserting, in accordance with the provisions of this Act, in the ballot box, a ballot paper in the prescribed form.

29. **Postal ballot.**—(1) The following persons may cast their votes by postal ballot in such manner as may be prescribed, namely :—

(a) a person referred to in sub-section (3) or sub-section (4) or sub-section (5) of section 7 of the Electoral Rolls Act, 1974 (XXI of 1974) ; and

(b) a person appointed by the Returning Officer, including police personnel, for the performance of any duty in connection with an election at a polling station other than the one at which he is entitled to cast his vote.

(2) An elector who, being entitled to do so, intends to cast his vote by postal ballot shall,—

(a) in the case of a person referred to in clause (a) of sub-section (1), within such time as may be specified by the Commission soon after the issue of the notification under section 11 ; and

(b) in the case of a person refered to in clause (b) of sub-section (1), as soon as may be after his appointment,

apply to the Returning Officer of the constituency in which he is an elector for a ballot paper for voting by postal ballot ; and every such application shall specify the name of the elector, his address and his serial number in the electoral roll.

(3) The Returning Officer shall immediately upon the receipt of an application by an elector under sub-section (2) send by post to such elector a ballot paper and an envelope bearing on its face a form of certificate of posting, showing the date thereof, to be filled in by the proper official of the Post Office at the time of posting by the elector.

(4) An elector on receiving his ballot paper for voting by postal ballot shall record his vote in the prescribed manner and, after so recording, post the ballot paper to the Returning Officer in the envelope sent to him under sub-section (3), so as to reach the Returning Officer before the consolidation of results by him.

30. **Ballot boxes.**—(1) The Returning Officer shall provide each Presiding Officer with such number of ballot boxes as may be necessary.

(2) The ballot boxes shall be of such material and design as may be approved by the Commission.

(3) Not more than one ballot box shall be used at a time for the purpose of the poll at any polling station, or at any polling booth, where there are more than one polling booths at a polling station.

(4) Before the time fixed for the commencement of the poll, the Presiding Officer shall—

(a) ensure that every ballot box to be used is empty ;

(b) show the empty ballot box to the contesting candidates and their election agents or polling agents whoever may be present, and record their statements in this behalf and obtain their signatures on them ;

(c) after the ballot box has been shown to be empty, close and seal it with his own seal and with the seal of such of the candidates, or their election agents or polling agents as may be present and may desire to put their own seals on it ; and

(d) place the ballot box so as to be conveniently accessible to the electors, and at the same time within his view and within the view of such candidates or their election agents or polling agents as may be present.

(5) If one ballot box is full or cannot further be used for receiving ballot papers, the Presiding Officer shall seal that ballot box with his own seal and with the seals of the candidates or their polling agents who may wish to seal it and keep it in a secure place in the polling station and use another ballot box in the manner laid down in sub-section (4).

(6) A Presiding Officer shall make such arrangements at the polling station that every elector may be able to secretly mark his ballot paper before folding and inserting it in the ballot box.

31. **Admission to the polling station.**—The Presiding Officer shall, subject to such instructions as the Commission may give in this behalf, regulate the number of electors to be admitted to the polling station at a time and shall exclude from the polling station all other persons except—

(a) any person on duty in connection with the election ;

(b) the contesting candidates, their election agents and polling agents ; and

(c) such other persons as may be specifically permitted by the Returning Officer.

32. **Maintenance of order at the polling station.**—(1) The Presiding Officer shall keep order at the polling station and may remove or cause to be removed any person who misconducts himself at a polling station or fails to obey any lawful orders of the Presiding Officer.

(2) Any person removed under sub-section (1) from a polling station shall not, without the permission of the Presiding Officer, again enter the polling station during the poll and shall, if he is accused of an offence in a polling station, be liable to be arrested without warrant by a police officer.

(3) The powers under this section shall be so exercised not to deprive an elector of an opportunity to cast his vote at the polling station at which he is entitled to vote.

33. **Voting procedure.**—(1) Where an elector presents himself at the polling station to vote, the Presiding Officer shall, after satisfying himself about the identity of the elector, issue to him a ballot paper.

(2) Before a ballot paper is issued to an elector—

(a) he shall be required to receive a personal mark, made with indelible ink, on any finger of either hand ;

(b) the number and name of the elector as entered in the electoral roll shall be called out ;

(c) a mark shall be placed on the electoral roll against the number and name of the elector to indicate that a ballot paper has been issued to him ;

(d) the ballot paper shall be stamped on its back with the official mark ;

(e) the Presiding Officer shall record on the counterfoil of the ballot paper the number of the elector on the electoral roll, stamp it with the official mark and obtain on it the signature or thumb impression of the elector.

(3) A ballot paper shall not be issued to a person who refuses to receive the personal mark with indelible ink or already bears such a mark or traces of such a mark or refuses to put his signature or thumb impression on the counterfoil.

(4) If a contesting candidate or his election agent or polling agent alleges that an elector to whom a ballot paper is about to be issued already has one or more ballot papers in his possession, the Presiding Officer may require the elector to satisfy him that he does not have any other ballot paper in his possession and may also take such measures as he thinks fit to ensure that such elector does not insert more than one ballot paper in the ballot box.

(5) On receiving the ballot paper, the elector shall—

(a) forthwith proceed to the place reserved for marking the ballot paper ;

(b) put the prescribed mark on the ballot paper at any place within the space containing the name and symbol of the contesting candidate for whom he wishes to vote ; and

(c) after he has so marked the ballot paper, fold and insert it in the ballot box.

(6) The elector shall vote without undue delay and shall leave the polling station immediately after he has inserted his ballot paper in the ballot box.

(7) Where an elector is blind or is otherwise so incapacitated that he cannot vote without the assistance of a companion, the Presiding Officer shall allow him such assistance and thereupon such elector may do with such assistance anything which an elector is required or permitted to do under this Act.

34. **Tendered ballot papers.**—(1) If a person representing himself to be an elector applies for a ballot paper when another person has already represented himself to be that elector and has voted under the name of the person so applying, he shall be entitled, subject to the provisions of this section, to receive a ballot paper (hereinafter referred to as " tendered ballot paper ") in the same manner as any other elector.

(2) A ballot paper issued under sub-section (1) shall, after it has been marked and folded by the elector, be placed in the same condition in a separate packet bearing the label "Tendered Ballot Paper" instead of being placed in the ballot box and shall not be included in the count by the Presiding Officer or the Returning Officer.

(3) The name of the person applying for a ballot paper under sub-section (1) and his number on the electoral roll shall be entered in a list (hereinafter referred to as "the tendered votes list") to be prepared by the Presiding Officer.

35. **Challenge of electors.**—(1) If, at the time a person applies for a ballot paper for the purpose of voting, a candidate or his polling agent declares to the Presiding Officer that he has reasonable cause to believe that person has already voted at the election, at the same or another polling station, or is not the person against whose name entered in the electoral roll he is seeking to vote, and undertakes to prove the charge in a court of law and deposits with the Presiding Officer in cash a sum of two rupees, the Presiding Officer may, after warning the person of the consequences and obtaining on the counterfoil, his thumb impression and, if he is literate, also his signature, issue a ballot paper (hereinafter referred to as "challenged ballot paper") to that person.

(2) If the Presiding Officer issues a ballot paper under sub-section (1) to such person he shall enter the name and address of that person in a list to be prepared by him (hereinafter referred to as "the challenged votes list") and obtain thereon the thumb impression and, if he is literate, also the signature of that person.

(3) A ballot paper issued under sub-section (1) shall, after it has been marked and folded by the elector, be placed in the same condition in a separate packet bearing the label "Challenged Ballot Papers", instead of being placed in the ballot box.

36. **Spoilt ballot paper.**—(1) An elector who has inadvertently so spoilt his ballot paper that it cannot be used as a valid ballot paper may, upon proving the fact of inadvertence to the satisfaction of the Presiding Officer and returning the ballot paper to him, obtain another ballot paper and cast his vote by such other ballot paper.

(2) The Presiding Officer shall forthwith cancel the ballot paper returned to him under sub-section (1), make a note to that effect on the counterfoil over his own signatures and sign the cancelled ballot paper, and place it in a separate packet bearing the label "Spoilt Ballot Papers".

37. **Voting after close of poll.**—No person shall be given any ballot paper or be permitted to vote after the hour fixed for the close of the poll, except the persons who at that hour are present within the building, room, tent or enclosure in which the polling station is situated and have not voted but are waiting to vote.

38. **Proceedings at the close of poll.**—(1) The Presiding Officer shall count the votes immediately after the close of the poll in the presence of such of the contesting candidates, election agents and polling agents as may be present.

(2) The Presiding Officer shall give such of the contesting candidates, election agents and polling agents as may be present, reasonable facility of observing the count and give them such information with respect thereto as can be given consistent with the orderly conduct of the count and the discharge of his duties in connection therewith.

(3) No person other than the Presiding Officer, the Polling Officer, any other person on duty in connection with the poll, the contesting candidates, their election agents and polling agents shall be present at the count.

(4) The Presiding Officer shall—

(a) open the used ballot box or ballot boxes and count the entire lot of ballot papers taken out therefrom ;

(b) open the packet bearing the label "Challenged Ballot Papers" and count them ;

(c) count, in such manner as may be prescribed, the votes cast in favour of each contesting candidate excluding from the count the ballot papers which bear—

(i) no official mark ;

(ii) any writing or any mark other than the official mark and the prescribed mark or to which a piece of paper or any other object of any kind has been attached ;

(iii) no prescribed mark to indicate the contesting candidate for whom the elector has voted ; or

(iv) any mark from which it is not clear for whom the elector has voted :

Provided that a ballot paper shall be deemed to have been marked in favour of a candidate if the whole or more than half of the area of the prescribed mark appears clearly within the space containing the name and symbol of that candidate and, where the prescribed mark is divided equally between two such spaces, the ballot paper shall be deemed invalid.

(5) The Presiding Officer may recount the votes—

(a) of his own motion if he considers it necessary ; or

(b) upon the request of a contesting candidate or an election agent present if, in his opinion, the request is not unreasonable.

(6) The valid ballot papers cast in favour of each contesting candidate shall be put in separate packets and each such packet shall be sealed and shall contain a certificate as to the number, both in letters and figures, of the ballot-papers put in it and shall also indicate the nature of the contents thereof, specifying the name and symbol of the contesting candidate to whom the packet relates.

(7) The ballot papers excluded from the count shall be put in a separate packet indicating thereon the total number both in letters and figures, of the ballot papers, contained therein.

(8) The packets mentioned in sub-sections (6) and (7) shall be put in a principal packet which shall be sealed by the Presiding Officer.

(9) The Presiding Officer shall, immediately after the count, prepare a statement of the count in such form as may be prescribed showing therein the number of valid votes polled by each contesting candidate and the ballot papers excluded from the count.

(10) The Presiding Officer shall also prepare in the prescribed form a ballot paper account showing separately—

(a) the number of ballot papers entrusted to him ;

(b) the number of un-issued ballot papers ;

(c) the number of ballot papers taken out of the ballot box or boxes and counted ;

(d) the number of tendered ballot papers ;

(e) the number of challenged ballot papers ; and

(f) the number of spoilt ballot papers.

(11) The Presiding Officer shall give a certified copy of the statement of the count and the ballot paper account to such of the candidates, their election agents or polling agents as may be present.

(12) The Presiding Officer shall seal in separate packets—

(a) the un-issued ballot papers ;

(b) the spoilt ballot papers ;

(c) the tendered ballot papers ;

(d) the challenged ballot papers ;

(e) the marked copies of the electoral rolls ;

(f) the counterfoils of used ballot papers ;

(g) the tendered votes list ;

(h) the challenged votes list ; and

(i) such other papers as the Returning Officers may direct.

(13) The Presiding Officer shall obtain on each statement and packet prepared under this section the signature of such of the contesting candidates or their election agents or polling agents as may be present and, if any such person refuses to sign, the Presiding Officer shall record that fact.

(14) A person required to sign a packet or statement under sub-section (13) may, if he so desires, also affix his seal to it.

(15) After the close of the proceedings under the foregoing sub-sections, the Presiding Officer shall, in compliance with such instructions as may be given by the Commission in this behalf, cause the packets, the statement of the count and the ballot paper account prepared by him to be sent to the Returning Officer together with such other records as the Commission may direct.

39. **Consolidation of results.**—(1) The Returning Officer shall give the contesting candidates and their election agents a notice in writing of the day, time and place fixed for the consolidation of the results, and, in the presence of such of the contesting candidates and election agents as may be present, consolidate in the prescribed manner the results of the count furnished by the Presiding Officers, including therein the postal ballots received by him before the time aforesaid.

(2) The consolidation proceedings shall be held without any avoidable delay as soon as possible after the polling day.

(3) Before consolidating the results of the count, the Returning Officer shall examine the ballot papers excluded from the count by the Presiding Officer and, if

he finds that any such ballot paper should not have been so excluded, count it as a ballot paper cast in favour of the contesting candidate for whom the vote has been cast thereby.

(4) The Returning Officer shall also count the ballot papers received by him by post in such manner as may be prescribed and include the votes cast in favour of each contesting candidate in the consolidated statement except those which he may reject on any of the grounds mentioned in sub-section (4) of section 38.

(5) The ballot papers rejected by the Returning Officer under sub-section (4) shall be shown separately in the consolidated statement.

(6) The Returning Officer may recount the ballot papers—

(a) upon the request of, or challenge in writing made by, a contesting candidate or his election agent, if the Returning Officer is satisfied that the request or the challenge is reasonable ; or

(b) if so directed by the Commission,

in which case the recount shall be held in such manner and at such place as may be directed by the Commission.

40. **Resealing of packets and supply of copies.**—The Returning Officer shall—

(a) immediately after preparing the consolidated statement and the return of election, reseal in the prescribed manner the packets and statements opened by him for the purpose of consolidation, permitting such of the candidates and their election agents as may be present to sign the packets and affix their seals to such packets ; and

(b) supply duly attested copies of the consolidated statement and the return of election to such of the candidates and their election agents as may be present.

41. **Equality of votes.**—(1) Where, after consolidation of the results of the count under section 39, it appears that there is equality of votes between two or more contesting candidates and the addition of one vote for one such candidate would entitle him to be declared elected, the Returning Officer or the Commission, as the case may be, shall forthwith draw a lot in respect of such candidates and the candidate on whom the lot falls shall be deemed to have received the highest number of votes entitling him to be declared elected.

(2) The lot shall be drawn in the presence of such of the contesting candidates and their election agents as may be present.

(3) The Returning Officer or the Commission, as the case may be, shall keep a record of the proceedings and obtain thereon the signature of such of the candidates and election agents as have been witness to the proceedings, and if any such person refuses to sign, such fact shall be recorded.

42. **Declaration of results.**—(1) The Returning Officer shall, after obtaining the result of the count under section 39 or of the drawal of the lots under section 41, intimate the results of the count to the Commission which shall declare by public notice the contesting candidate who has or is deemed to have received the highest number of votes to be elected.

(2) The public notice shall contain the name of, and the total number of votes received by, each contesting candidate as a result of consolidation under section 39 or as a result of drawal of lots under section 41.

(3) The Returning Officer shall, immediately after the count, submit to the Commission a copy of the consolidated statement in the prescribed form.

(4) The Commission shall publish in the official Gazette the name of the returned candidate.

43. **Return or forfeiture of deposit.**—(1) After the termination of the proceedings relating to an election under section 18 where the proceedings have been so terminated and the contesting candidate does not want to utilise his security deposit for a subsequent election, or after the declaration of the result of an election under section 20 or section 42 the deposit made under section 13, in respect of any candidate shall be returned to the person making it or to his legal representative, except the deposit in respect of a candidate who has received less than one-eighth of the total number of votes cast at the election.

(2) A deposit which is not required to be returned under sub-section (1) shall be forfeited to the Federal Government.

44. **Documents to be sent to, and retained by, the Commission.**—The Returning Officer shall forward to the Commission—

(a) the packets containing the ballot papers each of which shall be sealed with the seal of the Presiding Officer, or, if opened by the Returning Officer, with the seal of the Returning Officer;

(b) the packets containing the counterfoils of issued ballot papers;

(c) the packets containing the marked copies of the electoral rolls;

(d) the packets containing the ballot paper account;

(e) the packets containing the tendered ballot papers, the challenged ballot papers, the tendered votes list and the challenged votes list; and

(f) such other papers as the Commission may direct.

(2) The Returning Officer shall endorse in each packet forwarded under sub-section (1) the description of its contents, the date of the election to which the contents relate and the name and number of the constituency for which the election was held.

(3) The Commission shall retain the documents contained in the packets received under sub-section (1) for a period of one year from the date of their receipt and thereafter shall, unless otherwise directed by a Tribunal, cause them to be destroyed.

45. **Public inspection of documents.**—The documents retained by the Commission under section 44, except the ballot papers, shall be open to public inspection at such time and subject to such conditions as may be prescribed, and the Commission shall, upon an application made in this behalf and on payment of such fee and subject to such conditions as may be prescribed, furnish copies of, or extracts from, those documents.

46. **Order for production of documents.**—(1) A Tribunal may order the opening of packets of counterfoils and certificates or the inspection of any counted ballot papers.

(2) An order under sub-section (1) may be made subject to such conditions as to persons, time, place and mode of inspection, production of documents and opening of packets as the Tribunal making the order may think expedient:

Provided that, in making and carrying into effect an order for the inspection of counted ballot papers, care shall be taken that no vote shall be disclosed until it has been held by the Tribunal to be invalid.

(3) Where an order is made under sub-section (1), the production by the Commission of any document in such manner as may be directed by the order shall be conclusive evidence that the document relates to the election specified in the order, and any endorsement on any ballot papers or packet of ballot papers or documents so produced shall be *prima facie* evidence that the ballot papers or documents are what the endorsement states them to be.

(4) The production from proper custody of a ballot paper purporting to have been used at an election and of a numbered counterfoil bearing the signature or thumb impression of the elector shall be *prima facie* evidence that the elector whose vote was given by that ballot paper was the elector who had on the electoral rolls the same number as was written on the counterfoil.

(5) Save as is provided in this section, no person shall be allowed to inspect any rejected or counted ballot papers in the possession of the Commission.

CHAPTER V

ELECTION TO SEATS RESERVED FOR WOMEN OR CERTAIN COMMUNITIES

47. **Election to reserved seats.**—(1) Nothing in Chapters III and IV shall apply to an election to fill a seat reserved in an Assembly for women or for persons belonging to the Christian, Hindu, Sikh, Buddhist and Parsi communities and persons of the Quadiani group or the Lahori group (who call themselves 'Ahmadis') and other non-Muslims and persons belonging to the scheduled castes.

(2) The members for seats reserved for women in an Assembly shall be elected, subject to the provisions of clause (5) of Article 51 or, as the case may be, clauses (4) and (5) of Article 106, by the persons elected to the general seats in that Assembly so that there is one member for each of the constituencies for seats reserved for women in that Assembly.

(3) The members for seats reserved in an Assembly for persons belonging to the Christian, Hindu, Sikh, Buddhist and Parsi Communities and persons of the Quadiani group or the Lahori group (who call themselves 'Ahmadis') and other non-Muslims and persons belonging to the scheduled castes shall be elected, subject to the provisions of clause (4A) of Article 51 or, as the case may be, clause (5) of Article 106, by the persons elected to the general seats in that Assembly.

(4) The Commission shall hold and conduct the election to fill the seats reserved in an Assembly for the persons referred to in clause (3) of Article 106 or for women in such manner as may be prescribed.

CHAPTER VI

ELECTION EXPENSES

48. **Definition.**—In this Chapter, "election expenses" means any expenditure incurred before, during and after an election or payment made, whether by way of gift, loan, advance, deposit or otherwise, for the arrangement, conduct or benefit of, or in connection with, or incidental to, the election of a candidate, including the expenditure on account of issuing circulars or publications or otherwise presenting to the electors the candidate or his views, aims or objects, but does not include the deposit made under section 13.

49. **Restriction on election expenses.**—(1) No person shall, except as provided in sub-section (2), make any payment whatsoever towards the election expenses of a candidate except to such candidate.

(2) No person other than the candidate shall incur any election expenses of such candidate :

Provided that any person may, if so authorised by a contesting candidate in writing specifying a maximum amount, to the extent of such amount, make payment for stationery, postage, telegram and other petty expenses.

(3) The election expenses of a contesting candidate shall not exceed, in the case of an election to a seat in the National Assembly, forty thousand rupees and, in the case of an election to a seat in a Provincial Assembly, twenty-five thousand rupees or a sum calculated at the rate of fifty paisa for each entry in the electoral roll for the constituency for election to that seat, whichever is greater.

(4) Any person incurring any expenditure or making any payment under sub-section (2) shall, within fourteen days of the declaration of the result of the election, send to the candidate a statement of such expenditure or the particulars of such payment.

(5) A candidate shall, by a bill stating the particulars and by a receipt, vouch for every payment made in respect of election expenses except where the amount is less than twenty-five rupees.

50. **Return of election expenses.**—(1) Every contesting candidate shall, within forty-five days after the publication of the name of the returned candidate, submit to the Returning Officer a return of election expenses in the prescribed form containing—

(*a*) a statement of all payments made by the contesting candidate together with all the bills and receipts ;

(*b*) a statement of all disputed claims of which the contesting candidate is aware ;

(*c*) a statement of all unpaid claims, if any, of which the contesting candidate is aware ; and

(*d*) a statement of all moneys, securities or equivalent of money received from any person for the purpose of election expenses specifying the name of every such person.

(2) The return submitted under sub-section (1) shall be accompanied by an affidavit in the prescribed form sworn by the contesting candidate.

51. **Inspection of returns, etc.**—(1) The return and documents submitted under section 50 shall be kept by the Returning Officer in his office or at such other convenient place as he may think fit and shall, during one year from the date of their receipt by him, be open to inspection by any person on payment of the prescribed fee.

(2) The Returning Officer shall, on an application made in this behalf and payment of the prescribed fee, give any person copies of any return or document kept under sub-section (1) or of any part thereof.

CHAPTER VII

ELECTION DISPUTES

52. **Election petition.**—(1) No election shall be called in question except by an election petition made by a candidate for that election (hereafter in this Chapter referred to as the petitioner).

(2) An election petition shall be presented to the Commissioner within sixty days of the publication in the official Gazette of the name of the returned candidate and shall be accompanied by a receipt showing that the petitioner has deposited at any branch of the National Bank of Pakistan or at a Government Treasury or sub-Treasury in favour of the Commissioner, under the prescribed head of account, as security for the costs of the petition, a sum of one thousand rupees.

53. **Presentation of petition.**—(1) An election petition shall be presented by a petitioner and shall be deemed to have been presented—

(*a*) when it is delivered in person to the Secretary to the Commission or to such other officer as may be appointed by the Commission in that behalf,—

(*i*) by the petitioner; or

(*ii*) by a person authorised in writing in this behalf by the petitioner; or

(*b*) when delivered by registered post to the Secretary to the Commission or to such other officer as aforesaid.

(2) An election petition, if sent by registered post, shall be deemed to have been presented in time if it is posted within the period specified in sub-section (2) of section 52.

54. **Parties to the petition.**—The petitioner shall join as respondents to his election petition—

(a) all contesting candidates ; and

(b) any other candidate against whom any allegation of any corrupt or illegal practice is made,

and shall serve personally or by registered post on each such respondent a copy of the petition.

Explanation.—In this section and in the following provisions of this Chapter, "corrupt or illegal practice " means a " corrupt practice " or an " illegal practice" within the meaning of Chapter VIII.

55. **Contents of petition.**—(1) Every election petition shall contain—

(a) a precise statement of the material facts on which the petitioner relies;

(b) full particulars of any corrupt or illegal practice or other illegal act alleged to have been committed, including as full a statement as possible of the names of the parties alleged to have committed such corrupt or illegal practice or illegal act and the date and place of the commission of such practice or act ; and

(c) the relief claimed by the petitioner.

(2) A petitioner may claim as relief any of the following declarations, namely:—

(a) that the election of the returned candidate is void ;

(b) that the election of the returned candidate is void and that the petitioner or some other person has been duly elected ; or

(c) that the election as a whole is void.

(3) Every election petition and every schedule or annex to that petition shall be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908 (Act V of 1908), for the verification of pleadings.

56. **Procedure on receipt of petition by the Commissioner.**—(1) If the Commissioner finds that any provision of section 52, section 53 or section 54 has not been complied with, the petition shall be dismissed forthwith.

(2) If an election petition is not dismissed under sub-section (1), the Commissioner shall refer it for trial to a Tribunal.

57. **Appointment of Tribunal.**—(1) For the trial of election petitions under this Act, the Commissioner shall appoint as many Election Tribunals as may be necessary.

(2) An Election Tribunal shall consist of a person who has been, or is, or, at the time of his retirement as a District and Sessions Judge, was qualified to be, a Judge of a High Court.

58. **Power to transfer petition.**—The Commissioner, either of his own motion or on an application made in this behalf by any of the parties, may, at any stage, transfer an election petition from one Tribunal to another Tribunal and the Tribunal to which the election petition is so transferred—

(a) shall proceed with the trial of the petition from the stage from which it is transferred ; and

(b) may, if it thinks fit, recall and examine any of the witnesses already examined.

59. **Place of trial.**—The trial of an election petition shall be held at such place or places as the Tribunal may think fit.

60. **Advocate-General to assist the Tribunal.**—The Advocate-General for a Province shall, if a Tribunal so requires, assist the Tribunal at the hearing of an election petition in such manner as it may require.

61. **Appearance before Tribunal.**—Any appearance, application or act before a Tribunal may be made or done by a party in person or by an advocate or any other person entitled or allowed to plead in any civil court and duly appointed to act on his behalf :

Provided that the Tribunal may, where it considers it necessary, direct any party to appear in person.

62. **Procedure before Tribunal.**—(1) Subject to the provisions of this Act and the rules, every election petition shall be tried, as nearly as may be, in accordance with the procedure for the trial of suits under the Code of Civil Procedure, 1908 (Act V of 1908) :

Provided that the Tribunal may—

(a) where the election petition claims as relief a declaration that the election of the returned candidate is void on the ground that the returned candidate was not, on the nomination day, qualified for, or was disqualified from, being elected as a member, decide the question of such qualification or disqualification as a preliminary issue ;

(b) make a memorandum of the substance of the evidence of each witness as his examination proceeds unless it considers that there is special reason for taking down the evidence of any witness in full ; and

(c) refuse to examine a witness if it considers that his evidence is not material or that he has been called on a frivolous or vexatious ground for the purpose of delaying the proceedings or defeating the ends of justice.

(2) Subject to the provisions of this Act, the Evidence Act, 1872 (I of 1872), shall apply for the trial of an election petition.

(3) The Tribunal may, at any time, upon such terms and on payment of such fee as it may direct, allow a petition to be amended in such manner as may, in its opinion, be necessary for ensuring a fair and effective trial and for determining the real questions at issue, so however that no new ground of challenge to the election is permitted to be raised.

(4) At any time during the trial of an election petition, the Tribunal may call upon the petitioner to deposit such further sum by way of security, in addition to the sum deposited under section 52, as it may think fit.

63. **Dismissal of petition during trial.**—The Tribunal shall dismiss an election petition, if—

(a) the provisions of section 54 or section 55 have not been complied with ; or

(b) if the petitioner fails to make the further deposit required under sub-section (4) of section 62.

64. **Power of the Tribunal.**—The Tribunal shall have all the powers of a civil court trying a suit under the Code of Civil Procedure, 1908 (Act V of 1908), and shall be deemed to be a civil court within the meaning of sections 480 and 482 of the Code of Criminal Procedure, 1898 (Act V of 1898).

65. **Further provision relating to evidence and witnesses.**—(1) Notwithstanding anything to the contrary contained in any other law for the time being in force, no document shall be inadmissible in evidence at the trial of an election petition only on the ground that it is not duly stamped or registered.

(2) No witness shall be excused from answering any question as to any matter in issue, or relevant to a matter in issue, in the trial of an election petition upon the ground that the answer to such question may incriminate or tend to incriminate him or that it may expose or tend to expose him to any penalty or forfeiture ; but no witness shall be required or permitted to state for whom he has voted at an election.

(3) A witness who answers truly all questions which he is required to answer shall be entitled to receive a certificate of indemnity from the Tribunal and an answer given by him to a question put by or before the Tribunal shall not, except in the case of any criminal proceeding for perjury in respect of his evidence, be admissible in evidence against him in any civil or criminal proceedings.

(4) A certificate of indemnity granted to any witness under sub-section (3) may be pleaded by him in any court and shall be a full and complete defence to or upon any charge under Chapter IXA of the Pakistan Penal Code (Act LXV of 1860), or under this Act, arising out of the matter to which such certificate relates, but it shall not be deemed to relieve him from any disqualification in connection with an election imposed by any law for the time being in force.

(5) The reasonable expenses incurred by any person in attending to give evidence may be allowed to him by the Tribunal and shall, unless the Tribunal otherwise directs, be deemed to be part of the costs.

66. **Recrimination where seat is claimed.**—(1) Where in an election petition a declaration is claimed that a candidate other than the returned candidate has been duly elected, the returned candidate or any other party may produce evidence to prove that the election of such other candidate would have been declared void had he been the returned candidate and had a petition been presented calling his election in question :

Provided that the returned candidate or such other party as aforesaid shall not be entitled to give such evidence unless he or it has, within the fourteen days next following the commencement of the trial, given notice to the Tribunal of his intention so to do and has also deposited the security referred to in section 52.

(2) Every notice referred to in sub-section (1) shall be accompanied by a statement of the case, and all the provisions relating to the contents, verification, trial and procedure of an election petition, or to the security deposit in respect of an election petition, shall apply to such a statement as if it were an election petition.

67. **Decision of the Tribunal.**—(1) The Tribunal may, upon the conclusion of the trial of an election petition, make an order —

(*a*) dismissing the petition ;

(*b*) declaring the election of the returned candidate to be void ;

(*c*) declaring the election of the returned candidate to be void and the petitioner or any other contesting candidate to have been duly elected ; or

(*d*) declaring the election as a whole to be void.

(2) Save as provided in sub-section (3), the decision of a Tribunal on an election petition shall be final.

(3) Any person aggrieved by a decision of the Tribunal may, within thirty days of the announcement of the decision, appeal to the High Court and the decision of the High Court on such appeal shall be final, and shall not be subject to appeal to the Supreme Court. Every such appeal shall be heard by a Division Bench of two Judges of the High Court.

68. **Ground for declaring election of returned candidate void.**—(1) The Tribunal shall declare the election of the returned candidate to be void if it is satisfied that —

(*a*) the nomination of the returned candidate was invalid ; or

(*b*) the returned candidate was not, on the nomination day, qualified for, or was disqualified from, being elected as a member ; or

(*c*) the election of the returned candidate has been procured or induced by any corrupt or illegal practice ; or

(*d*) a corrupt or illegal practice has been committed by the returned candidate or his election agent or by any other person with the connivance of the candidate or his election agent.

(2) The election of a returned candidate shall not be declared void on the ground —

(*a*) that any corrupt or illegal practice has been committed, if the Tribunal is satisfied that it was not committed by, or with the consent or connivance of that candidate or his election agent and that the candidate and the election agent took all reasonable precaution to prevent its commission ; or

(*b*) that any of the other contesting candidates was, on the nomination day, not qualified for or was disqualified from, being elected as a member.

69. **Ground for declaring a person other than a returned candidate elected.**—The Tribunal shall declare the election of the returned candidate to be void and the petitioner or any other contesting candidate to have been duly elected, if it is so claimed by the petitioner or any of the respondents and the Tribunal is satisfied that the petitioner or such other contesting candidate was entitled to be declared elected.

70. **Ground for declaring election as a whole void.**—The Tribunal shall declare the election as a whole to be void if it is satisfied that the result of the election has been materially affected by reason of—

(*a*) the failure of any person to comply with the provisions of this Act or the rules ; or

(*b*) the prevalence of extensive corrupt or illegal practice at the election.

71. **Decision in case of equality of votes.**—(1) Where, after the conclusion of the trial, it appears that there is an equality of votes between two or more contesting candidates and the addition of one vote for one such candidate would entitle him to be declared elected, the Tribunal shall draw a lot in respect of such candidates and the candidate on whom the lot falls shall be deemed to have received the highest number of votes entitling him to be declared elected.

(2) Before proceeding to draw a lot under sub-section (1), the Tribunal shall give notice to the contesting candidates between whom there is an equality of votes and shall proceed to draw a lot on the day and at the time and place stated in the notice :

Provided that, if the contesting candidates are present when it appears that there is an equality of votes between them, the Tribunal may proceed forthwith to draw a lot without giving notice as aforesaid.

72. **Other provisions relating to Tribunal.**—(1) An order of the Tribunal under section 67 shall take effect on the date on which it is made and shall be communicated to the Commissioner who shall publish it in the official Gazette.

(2) The Tribunal shall after an election petition has been disposed of, forward the record thereof to the Commissioner who shall retain it for a period of five years from the date of its receipt and shall thereafter cause it to be destroyed.

73. **Withdrawal of petition.**—(1) An election petition may be withdrawn—

(*a*) before the Tribunal has been appointed, by leave of the Commissioner; and

(*b*) after a Tribunal has been appointed, by leave by the Tribunal.

(2) Where leave is granted by the Tribunal, the petitioner shall be ordered to pay the costs incurred by the respondents to the election petition or such portion thereof as the Tribunal may direct.

74. **Abatement on death of petitioner.**—(1) An election petition shall abate on the death of a sole petitioner or of the sole survivor of several petitioners.

(2) Where a petition abates under sub-section (1) after a Tribunal has been appointed, notice of the abatement shall be given by the Tribunal to the Commissioner.

75. **Death or withdrawal of respondent.**—If, before the conclusion of the trial of an election petition, a respondent dies or gives notice in the prescribed form that he does not intend to contest the petition, and no respondent remains to contest the petition, the Tribunal shall, without any further hearing, or after giving such person as it may think fit an opportunity of being heard, decide the case *ex-parte*.

76. **Failure of petitioner to appear.**—Where, at any stage of the trial of an election petition, no petitioner makes an appearance the Tribunal may dismiss the petition for default, and make such order as to costs as it may think fit.

77. **Order as to costs.**—(1) The Tribunal shall, when making an order under section 67, also make an order determining in its discretion the costs and specifying the persons by and to whom such costs are to be paid.

(2) If, in any order as to costs under sub-section (1) there is a direction for the payment of costs by any party to any person, such costs shall, if they have not already been paid, be payable in full and shall, upon application in writing in that behalf made to the Tribunal within six months of the order by the person to whom costs have been awarded, be paid, as far as possible, out of the security for costs deposited by such party.

(3) Where no costs have been awarded against a party who has deposited security for costs, or where no application for payment of costs has been made within the aforesaid six months, or where a residue remains after costs have been paid out of the security, such security or the residue thereof, as the case may be, shall, upon application in writing therefor by the person who made the deposit or by his legal representative, be returned by the Tribunal to the person making the application.

(4) Any order for costs may be enforced upon application in writing made to the principal civil court of original jurisdiction of the district in which the person from whom the costs are to be recovered resides or owns property, or of the district in which the constituency, or any part of the constituency, to which the disputed election relates is situate, as if such order were a decree passed by that court :

Provided that no proceeding shall be brought under this sub-section except in respect of costs which have not been recovered by an application under sub-section (2).

CHAPTER VIII

OFFENCE, PENALTY AND PROCEDURE

78. **Corrupt practice.**—A person is guilty of corrupt practice if he—

(1) contravenes the provisions of section 49 ;

(2) is guilty of bribery, personation or undue influence ;

(3) makes or publishes a false statement—

(a) concerning the personal character of a candidate or any of his relation calculated to adversely affect the election of such candidate or for the purpose of promoting or procuring the election of another candidate, unless he proves that he had reasonable grounds for believing, and did believe, the statement to be true ;

(b) relating to the symbol of a candidate, whether or not such symbol has been allocated to such candidate ; or

(c) regarding the withdrawal of a candidate ;

(4) calls upon or persuades any person to vote, or to refrain from voting, for any candidate on the ground that he belongs to a particular religion, province, community, race, caste, *bradari,* sect or tribe ;

(5) knowingly, in order to support or oppose a candidate, lets, lends, employs, hires, borrows or uses any vehicle or vessel for the purposes of conveying to or from the polling station any elector except himself and members of his immediate family ; or

(6) causes or attempts to cause any person present and waiting to vote at the polling station to depart without voting.

79. **Bribery.**—A person is guilty of bribery, if he, directly or indirectly, by himself or by any other person on his behalf—

(1) receives or agrees to receive or contracts for any gratification for voting or refraining from voting, or for being or refraining from being a candidate at, or for withdrawing from, an election ;

(2) gives, offers or promises any gratification to any person—

(*a*) for the purpose of inducing—

(*i*) a person to be, or to refrain from being, a candidate at an election ;

(*ii*) an elector to vote, or refrain from voting, at an election ; or

(*iii*) a candidate to withdraw from an election ; or

(*b*) for the purpose of rewarding—

(*i*) a person for having been, or for having refrained from being, a candidate at an election ;

(*ii*) an elector for having voted or refrained from voting at an election ; or

(*iii*) a candidate for having withdrawn from an election.

Explanation.—In this section, " gratification " includes a gratification in money or estimable in money and all forms of entertainment or employment.

80. **Personation.**—A person is guilty of personation, if he votes, or applies for a ballot paper for voting, as some other person whether that other person is living or dead or fictitious.

81. **Undue influence.**—A person is guilty of undue influence, if he—

(1) in order to induce or compel any person to vote or refrain from voting, or to offer himself as a candidate, or to withdraw his candidature, at an election, directly or indirectly, by himself or by any other person on his behalf—

(*a*) makes or threatens to make use of any force, violence or restraint ;

(*b*) inflicts or threatens to inflict any injury, damage, harm or loss ;

(*c*) calls down or threatens to call down divine displeasure or the displeasure or disapprobation of any saint or pir ;

(*d*) gives or threatens to give any religious sentence ; or

(*e*) uses any official influence or governmental patronage ; or

(*f*) maligns the Armed Forces of Pakistan; or

(2) on account of any person having voted or refrained from voting, or having offered himself as a candidate or having withdrawn his candidature, does any of the acts specified in clause (1) ; or

(3) directly or indirectly, by himself or by any other person on his behalf,—

(a) uses any place of religious worship, or any place reserved for the performance of religious rites, for the purpose of canvassing for votes or for persuading electors to vote, or not to vote, at an election or for a particular candidate ; or

(b) for any of the purposes specified in sub-clause (a), by words, spoken or written, or by signs or visible representation, publishes anything or does any act prejudicial to the glory of Islam or the integrity, security or defence of Pakistan or any part thereof ; or

(4) by abduction, duress or any fraudulent device or contrivance,—

(a) impedes or prevents the free exercise of the franchise by an elector ; or

(b) compels, induces or prevails upon any elector to vote or refrain from voting.

Explanation.—In this section, " harm " includes social ostracism or excommunication or expulsion from any caste or community.

82. **Penalty for corrupt practice.**—Any person guilty of corrupt practice shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to five thousand rupees, or with both.

83. **Illegal practice.**—(1) A person is guilty of illegal practice if he—

(a) fails to comply with the provisions of section 50 ;

(b) obtains or procures or attempts to obtain or procure, the assistance of any person in the service of Pakistan to further or hinder the election of a candidate ;

(c) votes or applies for a ballot paper for voting at an election knowing that he is not qualified for, or is disqualified from, voting ;

(d) votes or applies for a ballot paper for voting more than once in the same polling station ;

(e) votes or applies for a ballot paper for voting in more than one polling station for the same election ;

(f) removes a ballot paper from a polling station during the poll ; or

(g) knowingly induces or procures any person to do any of the aforesaid acts.

(2) Any person guilty of illegal practice shall be punishable with fine which may extend to two thousand rupees.

84. **Prohibition of public meetings, etc., during certain period.**—(1) No person shall convene, hold or attend any public meeting, and no person shall promote or join in any procession, within the area of any constituency during a period of forty-eight hours ending at midnight following the conclusion of the poll for any election in that constituency.

(2) Any person who contravenes the provisions of sub-section (1) shall be punishable with rigorous imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

85. **Prohibition of canvassing in or near polling station.**—A person is guilty of an offence punishable with fine which may extend to one thousand rupees if he, within a radius of four hundered yards of the polling station, on the polling day—

(1) canvasses for votes ;

(2) solicits the vote of any elector ;

(3) persuades any elector not to vote at the election or for a particular candidate ; or

(4) exhibits, except with the permission of the Returning Officer and at a place reserved for the candidate or his election agent beyond the radius of one hundred yards of the polling station, any notice, sign, banner or flag designed to encourage the electors to vote or discourage the electors from voting, for any contesting candidate.

86. **Disorderly conduct near polling station.**—A person is guilty of an offence punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both, if he, on the polling day—

(1) uses, in such manner as to be audible within the polling station, any gramophone, magaphone, loudspeaker or other apparatus for reproducing or amplifying sounds ;

(2) persistently shouts in such manner as to be audible within the polling station ;

(3) does any act which—

(*a*) disturbs or causes annoyance to any elector visiting a polling station for the purpose of voting ; or

(*b*) interferes with the performance of the duty of a Presiding Officer, Assistant Presiding Officer, Polling Officer or any other person performing any duty at a polling station ; or

(4) abets the doing of any of the aforesaid acts.

87. **Tampering with papers.**—(1) Except as provided in sub-section (2), a person is guilty of an offence punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both, if he—

(*a*) intentionally defaces or destroys any nomination paper, ballot paper or official mark on a ballot paper ;

(*b*) intentionally takes out of the polling station any ballot paper or puts into any ballot box any ballot paper other than the ballot paper he is authorised by law to put in ;

(*c*) without due authority,—

(*i*) supplies any ballot paper to any person ;

(*ii*) destroys, takes, opens or otherwise interferes with any ballot box or packet of ballot papers in use for the purpose of election ; or

(*iii*) breaks any seal affixed in accordance with the provisions of this Act;

(*d*) forges any ballot paper or official mark ; or

(*e*) causes any delay or interruption in the beginning, conduct or completion of the procedure required to be immediately carried out on the close of the poll.

(2) A Returning Officer, Assistant Returning Officer, Presiding Officer, Assistant Presiding Officer or any other officer or clerk on duty in connection with the election who is guilty of an offence under sub-section (1), shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both.

88. **Interference with the secrecy of voting.**—A person is guilty of an offence punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both if he—

(*a*) interfers or attempts to interfere with an elector when he records his vote;

(*b*) in any manner obtains or attempts to obtain in a polling station information as to the candidate for whom an elector is about to vote or has voted ; or

(*c*) communicates at any time any information obtained in a polling station as to the candidate for whom an elector is about to vote or has voted.

89. **Failure to maintain secrecy.**—A Returning Officer, Assistant Returning Officer, Presiding Officer, Assistant Presiding Officer, or polling officer, or any candidate, election agent or polling agent attending a polling station, or any person attending at the counting of votes is guilty of an offence punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both, if he—

(*a*) fails to maintain or aid in maintaining the secrecy of voting ;

(*b*) communicates, except for any purpose authorised by any law, to any person before the poll is closed any information as to the official marks ; or

(c) communicates any information obtained at the counting of votes as to the candidate for whom any vote is given by any particular ballot paper.

90. **Official not to influence voters.**—A Returning Officer, Assistant Returning Officer, Presiding Officer, Assistant Presiding Officer, polling officer or any other officer or clerk performing a duty in connection with an election, or any member of a police force, is guilty of an offence punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both, if he, in the conduct or management of an election or maintenance or order at a polling station,—

(*a*) persuades any person to give his vote ;

(*b*) dissuades any person from giving his vote ;

(*c*) influences in any manner the voting of any person ; or

(*d*) does any other act calculated to influence the result of the election.

91. **Breaches of official duty in connection with election.**— A Returning Officer, Assistant Returning Officer, Presiding Officer, Assistant Presiding Officer or any other person employed by any such officer in connection with his official duties imposed by or under this Act, is guilty of an offence punishable with imprisonment for a term which may extend to two years, or with fine which may

extend to one thousand rupees or with both, if he, wilfully and without reasonable cause, commits breach of any such official duty, by act or omission.

92. **Assistance by Government servant.**—A person in the service of Pakistan is guilty of an offence punishable with imprisonment for a term which may extend to two years, or with fine which may extend to two thousand rupees, or with both, if he misuses his official position in a manner calculated to influence the result of the election.

93. **Certain powers of a police officer.**—A police officer may—

(a) arrest without warrant, notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), any person—

(i) who commits personation or an offence under section 86 if the Presiding Officer direct him to so arrest such person ;

(ii) who, being removed from the polling station by the Presiding Officer under section 32 commits any offence at the polling station ;

(b) remove any notice, sign, banner or flag used in contravention of section 85 ; and

(c) seize any instrument or apparatus used in contravention of section 86 and take such steps, including use of force, as may be reasonably necessary for preventing such contravention.

94. **Certain offences cognizable.**—Notwithstanding anything contained in the Code of Criminal Procedure, 1898, an offence punishable under section 82 or section 85 or sub-section (1) of section 87 shall be a cognizable offence.

95. **Prosecution of offences by public officers.**—(1) No Court shall take cognizance of an offence punishable under sub-section (2) of section 87, section 89, section 90, section 91 or section 92 except upon a complaint in writing made by order of, or under authority from, the Commission or the Commissioner.

(2) The Commission or the Commissioner shall, if it or he has reason to believe that any offence specified in sub-section (1) has been committed, cause such enquiries to be made or prosecution to be instituted as it or he may think fit.

(3) An offence specified in sub-section (1) shall be exclusively triable by the Court of Session within the jurisdiction of which the offence is committed.

96. **Court proceedings relating to election expenses.**—The Commission shall direct the Returning Officer to launch proceedings in the appropriate court against persons who contravene the provisions of section 49 or fail to comply with the provisions of section 50.

97. **Court to report convictions to the Commission.**—A Court convicting any person for an offence punishable under this Chapter, other than corrupt practice, shall send a report to the Commission of such conviction together with its recommendations, if any, considering the special circumstances of any case, for the mitigation or remission of any disqualification incurred by such person under this Act.

98. **Punishment under this Chapter not in derogation of any other liability.**—Any punishment imposed on any person for an offence punishable under this Chapter shall be in addition to, and not in derogation of, any liability incurred by such person under any other provision of this Act.

CHAPTER IX

DISQUALIFICATIONS

99. **Disqualifications.**—(1) A person shall be disqualified from being elected as, and from being a member of an Assembly, if—

(a) he has been, on conviction for any offence which in the opinion of the Commissioner involves moral turpitude, sentenced to imprisonment for a term of not less than two years, unless a period of five years has elapsed since his release ; or

(b) he has been dismissed from the service of Pakistan on the ground of misconduct, unless a period of five years has elapsed since his dismissal; or

(c) he has been removed or compulsorily retired from the service of Pakistan on the ground of misconduct, unless a period of three years has elapsed since his removal or compulsory retirement ; or

(d) he has been in the service of Pakistan, except service on contract for a fixed term, unless a period of two years has elapsed since he ceased to be in such service ; or

(e) he is found guilty of a corrupt or illegal practice under any other law for the time being in force, unless a period of five years has elapsed from the date on which that order takes effect ; or

(f) he has, at any time on or after the twentieth day of December, 1971, been an office-bearer of a political party dissolved under sub-section (2) of section 6 of the Political Parties Act, 1962 (III of 1962), and has not, before a declaration in respect of such party is made under sub-section (1) of that section, resigned, or publicly announced his dissociation, from such party, unless a period of five years has elapsed from the date of such dissolution ; or

(g) he has been convicted under section 7 of the Political Parties Act, 1962 (III of 1962), unless a period of five years has elapsed from the date of such conviction ; or

(h) having, whether by himself or by any person in trust for him or for his benefit or on his account, any share or interest in a contract for—

(i) the supply of goods to, or

(ii) the execution of any work, or

(iii) the performance of any service, undertaken by,

the Government, or a local authority or an autonomous body in which the Government has a controlling share or interest, he does not, after his election as a member but before making oath, as such, make a declaration in writing to the Commissioner that he has such share or interest, unless a period of five years has elapsed since his failure to do so ; or

(i) being a managing agent, manager or secretary of, or holding any other office carrying the right to remuneration in, any company or corporation (other than a cooperative society) in the capital of which the Government has not less than twenty-five per cent share or which is managed by the Government, he does not, after his election as a member but before making oath as such, make a declaration in writing to the Commissioner that he is such managing agent, manager or secretary, or holds such office, unless a period of five years has elapsed since his failure to do so ; or

(j) he holds any office of profit in the service of Pakistan other than the following offices, namely :—

(i) an office which is not a whole time office remunerated either by salary or by fee ;

(ii) the office of Lumbardar, whether called by this or any other title;

(iii) the Qaumi Razakars ;

(iv) any office the holder whereof, by virtue of holding such office, is liable to be called up for military training or military service under any law providing the constitution or raising of a force.

Explanation I.—In clauses (d) and (j), " service of Pakistan " has the same meaning as in Article 260.

Explanation II.—In clause (f), " office-bearer of a political party " means an office-bearer at the National or Provincial set up of the party otherwise than as a mere member of the Working, Central, Provincial or other Committee of the party.

Explanatian III.—In clause (h), " supply of goods " does not include the supply of agricultural produce or commodities grown or produced by him or the supply of such goods as he is, under any directive of Government or any law for the time being in force, under a duty or legal obligation to supply.

(2) If a person, having been elected to an Assembly as a candidate or nominee of a political party, withdraws himself from that party, he shall, from the date of such with drawal, be disqualified from being a member of the Assembly for the unexpiredperiod of his term unless he has been re-elected at a bye-election held after his disqualification.

100. **Disqualification on account of certain offences.**—Where a person has been convicted for having exceeded the limit of election expenses laid down by section 49 or having failed to file the return of election expenses in accordance with section 50 or for any other offence under this Act, or has been found guilty of any corrupt or illegal practice by a Tribunal, he shall, if the Commissioner makes an order to that effect, be disqualified, for such period not exceeding five years as may be specified in the order, from being, or being elected as, a member of an Assembly.

101. **Disqualifications for being election agent.**—Any person who is for any period disqualified under section 100 for being, or being elected as, a member of an Assembly shall also stand disqualified for that period for being appointed as an election agent.

102. **Removal and remission of disqualification.**—The Commissioner may, on an application made in this behalf, remit any disqualification for failure to submit the return of election expenses or for any error or incorrect statement in such return, if he is satisfied that such failure or error occurred or incorrect statement was made due to circumstances beyond the control of the applicant.

CHAPTER X

MISCELLANEOUS

103. **Commission to ensure fair election, etc.**—Save as otherwise provided, the Commission may—

(a) stop the polls at any stage of the election if it is convinced that it shall not be able to ensure the conduct of the election justly, fairly and in accordance with law due to large scale mal-practices, including coercion, intimidation and pressures, prevailing at the election ;

(b) review an order passed by an officer under this Act or the rules, including rejection of a ballot paper ; and

(c) issue such instructions and exercise such powers, and make such consequential orders, as may, in its opinion, be necessary for ensuring that an election is conducted honestly, justly and fairly, and in accordance with the provisions of this Act and the rules.

104. **Directions of commission in certain matters.**—Anything required to be done for carrying out the purpose of this Act for which no provision or no sufficient provision exists shall be done by such authority and in such manner as the Commission may direct.

105. **Jurisdiction of courts barred.**—No court shall question the legality of any action taken in good faith by or under the authority of the Commission, the Commissioner, a Returning Officer, Presiding Officer or an Assistant Presiding Officer or any decision given by any of them or any other officer or authority appointed under this Act or the rules.

106. **Protection of action taken in good faith.**—No suit, prosecution or other legal proceeding shall lie against the Commission, the Commissioner or any officer or other person in respect of anything which is in good faith done or intended to be done under or in pursuance of this Act or of any rule or order made or any direction given thereunder.

107. **Power to make rules.**—The Commission may with the approval of the President, make rules for carrying out the purposes of this Act.

108. **Bye-eleitions, etc.**—(1) When the seat of a member becomes vacant, the Commission shall, by notification in the official Gazette, call upon the constituency concerned to elect a person to fill the seat for such constituency before such date as may be specified in the notification, and thereupon the provisions of this Act and the rules shall apply, as far as may be, to the election to fill such seat ;

Provided that, notwithstanding anything contained in sub-section (2) of section 11, the days for the several stages of an election shall be such as may be specified in the aforesaid notification.

(2) For the purpose of holding an election to fill a casual vacancy in an Assembly, and, during the period when a Commission does not stand constituted, for the purpose of section 107, reference in this Act to the Commission shall be construed as reference to the Commissioner.

109. **Repeal.**—The National and Provincial Assemblies (Election) Ordinance, 1970 (XIII of 1970), and the National and Provincial Assemblies (Elections to Reserved Seats) Act, 1976 (XVIII of 1976), are hereby repealed in their application to the elections to which this Act applies.

M. A. HAQ,
Secretary.

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PUBLISHED BY AUTHORITY

ISLAMABAD, SATURDAY, JANUARY 17, 1976

PART I

Acts, Ordinances, President's Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 17th January, 1976

No. F. 24 (1)/76-Pub.— The following Ordinance made by the President on the 14th January, 1976 is hereby published for general information :—

ORDINANCE NO IV OF 1976

AN

ORDINANCE

to regulate the import, export, manufacture, storage, distribution and sale of drugs

WHEREAS it is expedient to regulate the import, export, manufacture, storage, distribution and sale of drugs ;

AND WHEREAS the National Assembly is not in session and the President is satisfied that circumstances exist which render it necessary to take immediate action ;

Price : Ps. 37

[631 Ex. Gaz.]

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President is pleased to make and promulgate the following Ordinance :—

CHAPTER I

INTRODUCTORY

1. **Short title, extent and commencement.**—(1) This Ordinance may be called the Drugs Ordinance, 1976.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. **Application of other laws not barred.**—The provisions of this Ordinance shall be in addition to, and not in derogation of, the Dangerous Drugs Act, 1930 (II of 1930), and any other law for the time being in force.

3. **Definitions.**—In this Ordinance, unless there is anything repugnant in the subject or context,—

(*a*) " adulterated drug " means a drug—

(*i*) which consists in whole or in part of any filthy, putrid or decomposed substance or which contains any foreign matter, vermin, worm, rodent or insect ; or

(*ii*) which has been manufactured, packed, or held under unsanitary conditions whereby it may have been contaminated with dirt, filth or any other foreign matter or whereby it may have been rendered injurious to health ; or

(*iii*) the container of which releases any poisonous or deleterious substance which may render the contents injurious to health ; or

(*iv*) which bears or contains as an ingredient a substance other than the prescribed substance ; or

(*v*) with which any substance has been mixed or packed so as to reduce its quality or strength or for which any substance has been substituted wholly or in part ;

(*b*) " Appellate Board " means the Board constituted under section 9 ;

(*c*) " batch " means a quantity of any drug produced during a given cycle of manufacture ;

(*d*) " batch number " means a designation printed on the label of a drug that identifies the batch and permits the production history of the batch, including all stages of manufacture and control, to be traced and reviewed ;

(*e*) " counterfeit drug " means a drug the label or outer-packing of which is an imitation of, or resembles or so nearly resembles as to be calculated to deceive, the label or outer-packing of a drug of another manufacturer ;

(*f*) " drug " includes—

(*i*) any substance or mixture of substances that is manufactured, sold, stored, offered for sale or represented for internal or external use in the treatment, mitigation, prevention or diagnosis of disease, an abnormal physical state, or the symptoms thereof in human beings or animals, or the restoration, correction, or modification of organic functions in human beings or animals, not being a substance exclusively used or prepared for use in accordance with the ayurvedic, unani, homoeopathic or biochemic system of treatment, and such other substance as may be prescribed ;

(*ii*) abortive and contraceptive substances, agents and devices, surgical ligatures, sutures, bandages, absorbent cotton, disinfectants, bacteriophages, adhesive plasters, gelatine capsules and antiseptic solutions ;

(*iii*) such substances intended to be used for the destruction of such vermin, insects, rodents and other organisms as cause, carry or transmit disease in human beings or animals or for disinfection in residential areas or in premises in which food is manufactured, prepared or kept or stored ;

(*iv*) such pesticides as may cause health hazard to the public ;

(*v*) any substance mentioned as monograph or as a preparation in the Pakistan Pharmacopoeia or the Pakistan National Formulary or the International Pharmacopoeia or the British Pharmacopoeia or the British Pharmaceutical Codex or the United States Pharmacopoeia or the National Formulary of the United States, whether alone or in combination with any substance exclusively used in the unani, ayurvedic, homoeopathic or biochemic system of treatment, and intended to be used for any of the purposes mentioned in sub-clauses (i), (ii) and (iii) ; and

(*vi*) any other substance which the Federal Government may, by notification in the official Gazette, declare to be a " drug " for the purposes of this Ordinance ;

(*g*) " expiry date " means the date stated on the label of a drug after which the drug is not expected to retain its claimed efficacy, safety, quality or potency or after which it is not permissible to sell the drug ;

(*h*) " import ", with its grammatical variations and cognate expressions, means to bring into Pakistan by sea, land or air ;

(*i*) " export ", with its grammatical variations and cognate expressions, means to take out of Pakistan by sea, land or air ;

(*j*) " generic name " means the non-proprietary, scientific or official name of a drug as approved by the Federal Government ;

(*k*) " Inspector " means a Federal Inspector or a Provincial Inspector appointed under section 17 ;

(*l*) " label " means a display of written, printed or graphic matter upon the immediate container, or the outside container or wrapper, of a drug package ;

(*m*) " labelling " means all labels and other written, printed or graphic matter accompanying any drug ;

(*n*) " licensing authority " means such authority as may be prescribed ;

(*o*) " manufacture ", in relation to a drug, means all operations involved in the production of the drug, including processing, compounding, formulating, filling, packing, repacking, altering, ornamenting, finishing and labelling with a view to its storage, sale and distribution, but does not include the compounding and dispensing or the packing of any drug in the ordinary course of retail business or on a prescription of a registered medical practitioner or dentist or of a veterinarian and "to manufacture" shall be construed accordingly ;

(*p*) "misbranded drug" means a drug—

(*i*) which is not labelled in the prescribed manner ; or

(*ii*) on the label or labelling of which any word, statement, or other matter or information required by the rules to appear on the label or labelling is not prominently placed with such conspicuousness (as compared with other words, statements, designs, or devices on the label or labelling) and in such terms as may render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use ; or

(*iii*) which is not labelled with such directions for use and such warnings against use in indications where its use may be dangerous to health, or against unsafe dosage or duration of administration or application, in such manner and form as are necessary for the protection of users or as may be prescribed ; or

(*iv*) the label or container of which, or anything accompanying which, bears any statement, design or device which makes any false claim for the drug or which is false or misleading in any particular ; or

(*v*) which is so coloured, coated, powdered or polished that damage is concealed, or which is made to appear of better or greater therapeutic value than it really is ; or

(*vi*) which is manufactured according to the specifications of a particular pharmacopoeia or any other document as may be prescribed and the label does not bear the name of that pharmacopoeia or document ;

(*q*) "prescribed" means prescribed by rules ;

(*r*) "registered drug" means any drug registered under section 7 ;

(*s*) "rules" means rules made under this Ordinance ;

(*t*) "Drug Court" means a court established under section 31 ;

(*u*) "specifications" when applied to a drug means—

(*i*) such specifications as may be prescribed ; or

(*ii*) when the specifications are not prescribed, the specifications as contained in the most recent edition of any of the following publications, namely :—

(1) the Pakistan Pharmacopoeia ;

(2) the International Pharmacopoeia ;

(3) the European Pharmacopoeia ;

(4) the United States Pharmacopoeia ;

(5) the British Pharmacopoeia ;

(6) the British Pharmaceutical Codex ;

(7) the United States National Formulary ; and

(8) such other publication as may be prescribed :

Provided that, if the specifications do not appear in the most recent edition of any such publication, the specifications appearing in the next preceding edition of such publication in which the specifications appear shall apply ; or

(*iii*) if no specifications are either prescribed or contained in any of the publications referred to in sub-clause (ii), the specification approved for the purpose of registration under this Ordinance ;

(*v*) "sell" means sell, offer for sale, expose for sale, have in possession for sale and distribution and "to sell" "sold" or "sale" shall be construed accordingly ;

(*w*) "spurious drug" means a drug—

(*i*) which purports to be a drug but does not contain the active ingredient of that drug ; or

(*ii*) which purports to be the product of a manufacturer, place or country of whom or of which it is not truly a product ; or

(*iii*) which is imported or sold or offered or exposed for sale under one name while actually it is another drug ; or

(*iv*) the lable of which bears the name of an individual or company purporting to be its manufacturer or producer which individual or company is fictitious or does not exist ;

(*x*) "storage" means storage for sale and "to store" or "stored" shall be construed accordingly ; and

(*y*) "substandard drugs" means a drug which is not of the required specifications.

CHAPTER II

ADMINISTRATION AND ENFORCEMENT

4. **Regulation and prohibition of import, etc., of drugs.**— (1) The Federal Government shall regulate the import and export of drugs in the prescribed manner and for that purpose may make such orders and issue such directions to the importers and exporters as it may deem fit.

(2) If in the opinion of the Federal Government the public interest so requires, the Federal Government may, by notification in the official Gazette,—

(*a*) direct that a drug or a class of drugs specified in the notification, or drugs generally, shall not be imported or exported otherwise than under the authority of a licence issued under this Ordinance or except by an importer or exporter or through an indentor registered in accordance with the rules ;

(*b*) direct that a drug or class of drugs specified in the notification shall not be imported except by an agency of Government so specified ; or

(*c*) prohibit the import or export of any drug or class of drugs specified in the notification.

5. **Regulation of manufacture of drugs.**—(1) The grant of licences to manufacture drugs shall be regulated in accordance with such conditions and procedure as may be prescribed, by a Central Licensing Board to be set up by the Federal Government and consisting of such representatives of the Federal Government and the Provincial Governments as may be prescribed.

(2) The members of the Central Licensing Board shall exercise such powers, including the powers of an Inspector, as may be prescribed.

(3) The Central Licensing Board shall make regulations to regulate the conduct of its business.

(4) Any member of the Central Licensing Board may, at any time, by writing under his hand addressed to the Federal Government, resign his office and shall vacate his office if the Federal Government, being of opinion that in the public interest it is necessary so to do, so directs.

(5) Subject to sub-section (4), a member of the Central Licensing Board shall hold office for the prescribed period.

6. **Regulation of sale of drugs.**— The Provincial Government shall regulate the sale of drugs in the prescribed manner and may for that purpose make such orders, and issue such directions to the importers, manufacturers, stockists, retailers or other dealers of drugs, as it may deem fit.

7. **Registration of drugs.**—(1) The Federal Government shall cause all drugs to be registered in accordance with such conditions and procedure as may be prescribed and for that purpose set up a Registration Board, consisting of such number of persons, possessing such qualifications, as may be prescribed.

Explanation.— In this section, " drugs " means drugs which are in the finished form ready for use.

(2) The members of the Registration Board shall exercise such powers, including the powers of an Inspector, as may be prescribed.

(3) The Registration Board shall make regulations to regulate the conduct of its business.

(4) Any member of the Registration Board may, at any time, by writing under his hand addressed to the Federal Government, resign his office and shall vacate his office if the Federal Government, being of opinion that in the public interest it is necessary so to do, so directs.

(5) Subject to sub-section (4), the members of the Registration Board shall hold office for the prescribed period.

(6) The Federal Government shall, by notification in the official Gazette, fix the date after which no drug which is not registered shall be allowed to be imported, manufactured, stored, distributed or sold.

(7) A person applying for the registration of a drug shall furnish such information in respect of the drug as may be prescribed, including information relating to its efficacy, safety and quality, or as may be required by the Registration Board for the purpose of the evaluation of the drug.

(8) Single-ingredient drugs shall be registered generally by their generic names while compound drugs shall be registered generally by their proprietary names.

Explanation.— In this sub-section,—

(*a*) "single-ingredient drugs" means drugs containing one active ingredient;

(*b*) "compound drugs" means drugs containing more than one active ingredient.

(9) The registration of a drug shall be subject to such conditions, if any, as the Registration Board may specify at the time of its registration.

(10) Where the Registration Board registers a drug, it shall inform the person applying for its registration and the Provincial Government of its having done so and of the conditions subject to which it has been registered.

(11) If the Registration Board, on the basis of information received or an inquiry conducted by it, is of opinion that—

(*a*) the registration of a drug was procured by fraud or misrepresentation; or

(*b*) the circumstances in which a drug was registered no longer exist; or

(*c*) there has been a violation of the conditions subject to which a drug was registered; or

(*d*) it is necessary in the public interest so to do, the Registration Board may, after affording to the person on whose application the drug was registered an opportunity of showing cause against the action proposed to be taken, cancel or suspend the registration or specify any further conditions to which the registration shall be subject and inform such person and the Provincial Government accordingly.

(12) The Provincial Governments shall take all such steps as may be necessary to ensure compliance with the conditions subject to which a drug is registered and to prevent the manufacture or sale of a drug—

(*a*) which has not been registered; or

(*b*) the registration of which has been cancelled or stands suspended.

8. **National Formulary**.— The Federal Government shall compile and publish in the official Gazette a National Formulary comprising all drugs allowed to be imported, manufactured or sold and such Formulary may be reviewed and modified from time to time.

9. **Appellate Board.**— (1) The Federal Government shall, in accordance with the rules, constitute an Appellate Board for the disposal of appeals preferred by persons aggrieved by any decision of the Central Licensing Board or the Registration Board and for revision of any such decision on its own motion.

(2) The Appellate Board shall consist of such representatives of the Federal Government and the Provincial Governments, including a Chairman, as the Federal Government may from time to time appoint.

(3) Subject to sub-section (4), the Chairman and other members of the Appellate Board shall hold office for the prescribed period.

(4) The Chairman or any other member of the Appellate Board may, by writing under his hand addressed to the Federal Government, resign his office and shall vacate his office if the Federal Government, being of opinion that in the public interest it is necessary so to do, so directs.

(5) The members of the Appellate Board shall exercise such powers, including the powers of an Inspector, as may be prescribed.

(6) The Appellate Board may appoint experts for the purposes of detailed study of any specific matter before it.

(7) The Appellate Board shall make regulations to regulate the conduct of its business.

10. **Expert Committees.**—(1) The Federal Government may constitute a Committee on Drugs Evaluation, a Committee on Pakistan Pharmacopoeia, a Committee on Advertising and such other committees as may be necessary for the purposes of this Ordinance.

(2) Each committee constituted under sub-section (1) shall consist of such members as the Federal Government may appoint from time to time and each such member shall hold office during the pleasure of the Federal Government.

11. **Provincial Quality Control Board.**—(1) The Provincial Government shall set up a Provincial Quality Control Board consisting of such members, including a Chairman, as that Government may appoint from time to time.

(2) The Chairman and other members of the Provincial Quality Control Board shall hold office during the pleasure of the Provincial Government, on such terms and conditions as that Government may determine.

(3) The Provincial Government shall appoint a person to be the Secretary of the Provincial Quality Control Board and provide the Board with such staff as the Provincial Government may consider necessary.

(4) The Provincial Quality Control Board shall make regulations to regulate the conduct of its business.

(5) The following shall be the powers and functions of the Provincial Quality Control Board, namely :—

(*a*) to inspect any premises where any drug is being, or is to be, manufactured or sold and to recommend to the appropriate authority the cancellation or suspension of the licence to manufacture or sell drugs granted to any person who is found to be contravening, or to have contravened, any of the provisions of this Ordinance or the rules ;

(*b*) to scrutinize the reports of Provincial Inspectors in respect of contraventions of this Ordinance and reports of Government Analysts in respect of drugs sent to them by Provincial Inspectors for test and analysis and issue instructions to the Inspectors as to the action to be taken on such reports :

Provided that the Provincial Quality Control Board may specify the class of cases in which a Provincial Inspector may make a complaint to the Drug Court, or take any other action, without the specific instructions of the Board ;

(*c*) to exercise all the powers of an Inspector under this Ordinance and the rules ; and

(*d*) to advise the Provincial Government on ways and means to ensure quality control of drugs manufactured in the Province.

(6) The Provincial Quality Control Board may entrust any of its powers or functions under sub-section (4) to any one or more of its members.

12. **Power to fix maximum prices of drugs, etc.**—(1) The Federal Government may, by notification in the official Gazette,—

(*a*) fix the maximum price at which any drug specified in the notification may be sold ; and

(*b*) specify the percentage of the profits of manufacturers of drugs which shall be utilised, in accordance with the rules, for purposes of research in drugs.

(2) For the purpose of the exercise of its powers under sub-section (1), the Federal Government may require a manufacturer, stockist, importer, exporter, retailer or other dealer in drugs to furnish such information as may be necessary.

13. **Directions to Provincial Governments.**—The Federal Government may give such directions to a Provincial Government as may appear to the Federal Government to be necessary for carrying into execution in the Province of any of the provisions of this Ordinance or of any rule or order made thereunder or for maintaining supplies of drugs of standard quality at reasonable prices or for the achievement of uniformity in respect of any matter in different parts of Pakistan.

14. **Federal Drug Laboratory and institutes, etc.**—The Federal Government shall, as soon as may be, establish a Federal Drug Laboratory and may also set up such other institutes and drugs testing and research laboratories for the purposes of this Ordinance as may be prescribed.

15. **Provincial Drugs Testing Laboratory.**—The Provincial Government shall, as soon as may be, set up a Provincial Drug Testing Laboratory for such purposes as may be prescribed.

16. **Provincial Government Analysts.**—The Provincial Government may, by notification in the official Gazette, appoint such persons as it thinks fit, having the prescribed qualifications, to be the Government Analysts for such areas and in respect of such drugs or classes of drugs as may be specified in the notification :

Provided that no person who has any financial interest in the manufacture, import, export or sale of drugs shall be as appointed :

Provided further that a person serving under the Federal Government or another Provincial Government shall not be so appointed without the previous consent of that Government.

17. **Inspectors.**—The Federal Government or a Provincial Government may, by notification in the official Gazette, appoint such persons as it thinks fit, having

the prescribed qualifications, to be Federal Inspectors or, as the case may be, Provincial Inspectors for the purposes of this Ordinance within such local limits as it may assign to them respectively :

Provided that no person who has any financial interest in the manufacture, import, export or sale of any drug shall be so appointed :

Provided further that a person serving under the Federal Government or another Provincial Government shall not be so appointed without the previous consent of that Government.

18. **Powers of Inspectors.**—(1) Subject to the provisions of section 19 and of any rules made in this behalf, an Inspector may, within the local limits for which he is appointed, and in any other area with the permission of the licensing authority,—

(*a*) inspect any premises wherein any drug is manufactured, the plant and process of manufacture, the means employed for standardising and testing the drugs and all relevant records and registers ;

(*b*) inspect any permises wherein any drug is sold or is stocked or exhibited for sale or is distributed, the storage arrangements and all relevant records and registers ;

(*c*) take samples of any drug which is being manufactured, or being sold or is stocked or exhibited for sale or is being distributed ;

(*d*) enter and search, with such assistance, if any, as he considers necessary, any building, vessel or place, in which he has reason to believe that an offence under this Ordinance or any rules has been or is being committed or may continue to be committed ;

(*e*) call any person from the neighbourhood to be present as witness in the course of search or seizure or in connection with any other matter where the presence of witnesses is necessary ;

(*f*) seize such drug and all materials used in the manufacture thereof and any other articles, including registers, cash-memos, invoices and bills, which he has reason to believe may furnish evidence of the commission of an offence punishable under this Ordinance or any rules ;

(*g*) require any person to appear before him at any reasonable time and place to give statement, assistance or information relating to or in connection with the investigation of an offence under this Ordinance or the rules :

Provided that the exemptions under sections 132 and 133 of the Code of Civil Procedure, 1908 (Act V of 1908), shall be applicable to requisitions for attendance under this clause ;

(*h*) lock and seal any factory, laboratory, shop, building, store-house or godown, or a part thereof, where any drug is or is being manufactured, stored, sold or exhibited for sale without the necessary licence under this Ordinance ;

(*i*) forbid for a reasonable period, not exceeding four weeks or such further period, which shall not be more than three months, as the Inspector may, with the approval of the Provincial Quality Control Board, the Central Licensing Board or the Registration Board, as the case may be, specify, any person in charge of any premises from removing or dispensing of any drug, article or other thing likely to be used in evidence of the commission of an offence under this Ordinance or the rules ; and (*j*) exercise such other powers as may be necessary for carrying out the purposes of this Ordinance or any rules :

Provided that a Federal Inspector shall exercise the powers under this section only in respect of the provisions of this Ordinance and the rules relating to the import, export or manufacture for sale of drugs, licences for manufacture of drugs and registration of drugs :

Provided further that the powers under clauses (f) to (j) shall be exercisable only by an Inspector specifically authorised in this behalf, by an order in writing, by the Government appointing him, subject to such conditions as may be specified in such order.

(2) The provisions of the Code of Criminal Procedure, 1898, (Act V of 1898), in so far as they are not inconsistent with the provisions of this Ordinance, shall apply to searches and seizures made under this Ordinance.

19. **Procedure of Inspector.**—(1) Where a Provincial Inspector seizes any drug or any other article under section 18, he shall tender a receipt therefor in the prescribed form, and pay the price thereof.

(2) Where a Provincial Inspector takes a sample of a drug for the purpose of test or analysis, he shall intimate such purpose in writing in the prescribed form to the person from whom he takes it and, in the presence of such person unless he wilfully absents himself, shall divide the sample into four portions and effectively seal and suitably mark the same and permit such person to add his own seal and mark to all or any of the portions so sealed and marked :

Provided that, where the sample is taken from premises whereon the drug is being manufactured, it shall be necessary to divide the sample into three portions only :

Provided further that, where the drug is made up in containers of small volume, instead of dividing a sample as aforesaid, the Provincial Inspector may, and if the drug be such that it is likely to deteriorate or be otherwise damaged by exposure shall, take three or four, as the case may be, of the said containers after suitably marking the same and, where necessary, sealing them.

(3) The Provincial Inspector shall restore one portion of a sample so divided or one container, as the case may be, to the person from whom he takes it, and shall retain the remainder and dispose of the same as follows :—

(*i*) one portion or container he shall forthwith send to the Government Analyst for test and analysis ;

(*ii*) the second he shall produce before the Drug Court before which proceedings, if any, are instituted in respect of the drug ; and

(*iii*) the third, where taken, he shall send to the warrant or if any, named under the proviso to sub-section (3) of section 33.

(4) Where a Provincial Inspector seizes any drug containing any filthy or putrid substance, vermin, worm, rodent, insect or any foreign matter which is visible to the naked eye, and the sample is such that it cannot or need not be divided, as in the case of a vial or injection or a bottle of a liquid preparation, he shall effectively seal and suitably mark the same and permit the person from whom he seizes the drug to add his own seal and mark to it and shall produce the same before the court for the purpose of prosecution if the Provincial Quality Control Board directs him to take such action.

(5) Where a Provincial Inspector takes any action under section 18,—

(*a*) he shall use all despatch in ascertaining whether or not the drug contravenes any of the provisions of this Ordinance and, if it is ascertained that the drug does not so contravene, forthwith revoke the order passed under the said section or, as the case may be, take such action as may be necessary for the return of the stock seized ;

(*b*) if he seizes the stock of the drug, he shall, as soon as may be, inform the Drug Court and take its order as to the custody thereof ; and

(*c*) without prejudice to the institution of any prosecution, if the alleged contravention be such that the defect may be remedied by the possessor of the drug, shall, on being satisfied that the defect has been so remedied, forthwith revoke his order under the said section.

(6) The Provincial Inspector on finding any contravention of this Ordinance shall, unless the Board otherwise directs, always refer the case to the Provincial Quality Control Board and seek orders as to the action to be taken in respect of such contravention.

(7) The Federal Government shall prescribe the procedure to be followed by the Federal Inspectors and for submission of test reports by the prescribed laboratory.

(8) The Federal Inspector on finding any contravention of this Ordinance for which he is authorised shall, unless otherwise directed, always refer the case to the Central Licensing Board or the Registration Board or any other authority as may be specified for the purpose and seek orders as to the action be taken in respect of such contravention.

20. **Persons bound to disclose place where drugs are manufactured or kept.**—Every person for the time being in charge of any premises whereon any drug is being manufactured or is kept for sale or distribution shall, on being required by an Inspector so too do, disclose to the Inspector the place where the drug is being manufactured or is kept, as the case may be.

21. **Disclosure of the name of the manufacturer.**—Every person, not being the manufacturer of a drug or his agent for the distribution thereof, shall, if so required by an Inspector, disclose to him the name, address and other particulars of the manufacturer or other person from whom he acquired the drug.

22. **Reports of Government Analysts.**—(1) The Government Analyst to whom a sample of any drug has been submitted for test and analysis under sub-section (3) of section 19 shall deliver to the Provincial Inspector submitting it a signed report in quadruplicate in the prescribed form and forward one copy thereof to the licensing authority.

(2) The Government Analyst, as far as may be, shall submit the report referred to in sub-section (1) within sixty days of the receipt by him of the sample of the drug and, if he is not able to do so for reasons beyond his control, shall communicate the reasons to the Provincial Inspector in writing.

(3) On receipt of the report, the Provincial Inspector shall—

(*a*) deliver one copy thereof to the person from whom the sample was taken ;

(*b*) forward one copy to the warrantor, if any, named under the proviso to sub-section (3) of section 33 ;

(*c*) forward one copy to the Provincial Quality Control Board for its directions as to the action to be taken on the report ; and

(*d*) retain the fourth copy for use in any prosecution in respect of the sample.

(4) Any document purporting to be a report signed by a Government Analyst shall be evidence of the facts stated therein and such evidence shall be conclusive unless the person from whom the sample was taken or the said warrantor has within a fortnight of the receipt of a copy of the report notified in writing to the Inspector or the Drug Court before which any proceedings in respect of the sample are pending that he intends to adduce evidence in controversion of the report.

(5) Where a person has, under sub-section (4), notified his intention of adducing evidence in controversion of a Government Analyst's report, the Drug Court may, of its own motion or in its discretion at the request either of the complainant or the accused, cause the sample of the drug produced before the Court under sub-section (3) of section 19 to be sent for test or analysis to the Federal Drug Laboratory or any other laboratory specified for the purpose by the Federal Government which shall make the test or analysis and report in writing signed by, or under the authority of, the person for the time being incharge of the Federal Drug Laboratory, or, as the case may be, such other laboratory, the result thereof and such report shall be conclusive evidence of the facts stated therein.

(6) The cost of a test or analysis made by the Federal Drug Laboratory or other laboratory under sub-section (5) shall be paid by the complainant or accused as the Drug Court shall direct.

CHAPTER III

PROHIBITIONS

23. **Import, manufacture and sale of drugs.**—(1) No person shall himself or by any other person on his behalf—

(*a*) import or manufacture for sale or sell—

(*i*) any spurious drug ;

(*ii*) any counterfeit drug ;

(*iii*) any misbranded drug ;

(*iv*) any adulterated drug ;

(*v*) any substandard drug ;

(*vi*) any drug which is not registered or is not in accordance with the conditions of registration ;

(*vii*) any drug which, by means of any statement, design or device accompanying it or by any other means, purports or claims to cure or mitigate any such disease or ailment or to have any such other effect, as may be prescribed ;

(*viii*) any drug if it is dangerous to health when used in the dosage or with the frequency, or for the duration, specified, recommended or suggested in the labelling thereof ; or

(*ix*) any drug in contravention of any of the provisions of this Ordinance or any rule ;

(*b*) sell any drug which has been imported, manufactured or labelled in contravention of any of the provisions of this Ordinance or any rule ;

(*c*) manufacture for sale any drug except under, and in accordance with the conditions of, a licence issued under this Ordinance ;

(*d*) manufacture for sale or sell or advertise any drug in a manner that is false, misleading or deceptive or is likely to create an erroneous impression regarding its character, value, quality, quantity, composition, merit, efficacy or safety ;

(*e*) sell any drug except under, and in accordance with the conditions of, a licence issued under this Ordinance ;

(*f*) import or export any drug the import or export of which is prohibited by or under this Ordinance ;

(*g*) import or export any drug for the import or export of which a licence is required, except under, and in accordance with the conditions of, such licence ;

(*h*) supply an incorrect, incomplete or misleading information, when required to furnish any information under this Ordinance or the rules ;

(*i*) peddle, hawk or offer for sale any drug in a park or public street or on a highway, footpath or public transport or conveyance ;

(*j*) import, manufacture for sale, or sell any substance, or mixture of substances, which is not a drug but is presented in a form which is intended or likely to cause the public to believe it to be a drug ;

(*k*) sell any drug without having a warranty in the prescribed form bearing the name of the drug and the number of the batch to which it belongs issued,—

  (*i*) in the case of a drug manufactured in Pakistan, by the manufacturer holding a valid licence to manufacture drugs and permission to manufacture that drug or by his authorised agent ; and

  (*ii*) in the case of an imported drug, by the manufacturer or importer of that drug or, if the drug is imported through an indentor by such indentor.

(2) Nothing in sub-section (1) shall apply to the manufacture or import, subject to prescribed conditions, of small quantities of any drug for the purpose of clinical trial, examination, test, analysis or personal use.

24. **Control of advertisement.**—No person shall himself or by any other person on his behalf advertise, except in accordance with such conditions as may be prescribed,—

(*i*) any drug ;

(*ii*) any substance used or prepared for use in accordance with the ayurvadic, unani, homoeopathic or biochemic system of treatment or any other substance or mixture of substances as may be prescribed;

(*iii*) any remedy, treatment or offer of a treatment for any disease.

Explanation.—In this section, " advertise " means to make any representation by any means whatsoever for the purpose of promoting directly or indirectly the sale or disposal of a drug, a substance or a mixture of substances, a remedy or a treatment except the display of sign boards for a clinic, a dispensary or a hospital or such other institution offering treatment.

25. **Control of sampling.**—No person shall distribute or cause to be distributed any drug as a sample except in accordance with such conditions as may be prescribed.

26. **Control of printing of labelling.**—No person shall print any labelling in respect of any drug which is not registered under this Ordinance or for a person who does not possess a licence under this Ordinance to manufacture that drug.

CHAPTER IV

OFFENCES, PENALTIES AND PROCEDURE

27. **Penalties.**—(1) Whoever himself or by any other person on his behalf—

(a) imports, manufactures for sale or sells any spurious drug or any drug which is not registered ;

(b) manufactures for sale any drug without a licence ; or

(c) imports without licence any drug for the import of which a licence is required ;

shall be punishable with imprisonment for a term which shall not be less than three years or more than ten years and with fine which may extend to one lakh rupees :

Provided that the Drug Court may, for any special reasons to be recorded, award a sentence of imprisonment for a term of less than three years.

(2) Whoever himself or by any other person on his behalf—

(a) imports, manufactures for sale or sells any counterfeit drug ; or

(b) gives to the purchaser a false warranty in respect of any drug sold by him that the drug does not in any way contravene the provisions of section 23 and is not able to prove that, when he gave the warranty, he had good and sufficient reason to believe the same to be true ; or

(c) applies or permits to be applied to any drug sold, or stocked or exhibited for sale, by him, whether on the container or a label or in any other manner, a warranty given in respect of any other drug ;

shall be punishable with imprisonment for a term which may extend to seven years, or with fine which may extend to one lakh rupees, or with both.

(3) Whoever obstructs an Inspector in the exercise of any power conferred upon him by or under this Ordinance, or disobeys the lawful authority of any Inspector, shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

(4) Subject to the provisions of sub-section (1), sub-section (2) and sub-section (3), whoever himself or by any other person on his behalf contravenes any of the provisions of this Ordinance or any rule shall be punishable with imprisonment for a term which may extend to five years, or with fine which may extend to fifty thousand rupees, or with both.

28. **Penalty for subsequent offence.**—(1) Whoever having been convicted of an offence under sub-section (1) of section 27 is again convicted of an offence under that sub-section shall be punishable with imprisonment for life or with imprisonment which shall not be less than five years and with fine which may extend to two lakh rupees.

(2) Whoever having been convicted of an offence under sub-section (2) of section 27 is again convicted of an offence under that sub-section shall be punishable with imprisonment for a term which shall not be less than two years or more than ten years, or with fine which may extend to two lakh rupees, or with both.

(3) Whoever having been convicted of an offence under sub-section (4) of section 27 is again convicted of an offence under that sub-section shall be punishable with imprisonment for a term which may extend to seven years, or with fine which may extend to one lakh rupees, or with both.

29. **Forfeiture.**—(1) Where any person has been convicted under this Ordinance for contravening any such provisions of this Ordinance or any rule as may be prescribed in this behalf, the Drug Court may order that the stock of drug or substance by means of or in relation to which the offence was committed or anything of a similar nature belonging to or in the possession of the accused or found with such drug or substance, and if such contravention is punishable under sub-section (1) of section 27, any implements used in the sale of such drug and any receptacles, packages or coverings in which such drug is contained and the animals, vehicles, vessels or other conveyances, used in carrying such drug, be forfeited to the Federal Government or, as the case may be, the Provincial Government and, upon such order being made, such drug, substance, implements, receptacles, packages or coverings, animals, vehicles, vessels or conveyances may be disposed of as that Government may direct.

(2) Without prejudice to the provisions of sub-section (1), where the Drug Court is satisfied, on the application of an Inspector or otherwise, and after such inquiry as may be necessary, that a drug contravenes the provisions of this Ordinance, the Drug Court may order that such drug be forfeited to the Federal Government or, as the case may be, the Provincial Government and, upon such order being made, such drug may be destroyed or otherwise disposed of as that Government may direct.

(3) An Inspector shall release any drug or article seized by him under this Ordinance when he is satisfied that all the provisions of this Ordinance and the rules with respect there to have been complied with.

30. **Cognizance of offences.**—(1) No prosecution shall be instituted under this Chapter except—

(*a*) by a Federal Inspector, where the prosecution is in respect of a contravention of clause (h) of sub-section (1) of section 23 or section 24 or any of the provisions of this Ordinance or the rules relating to the import or export of drugs or the manufacture for sale, or sale, of a drug which is not for the time being registered or for the manufacture for sale of which a licence is not for the time being in force ; or

(*b*) by a Provincial Inspector.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898),—

(*a*) an offence punishable under this Chapter shall be non-cognizable, and

(*b*) no court other than a Drug Court shall try an offence punishable under this Chapter.

(3) Nothing contained in this Chapter shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence punishable under this Chapter or to require the transfer to a Drug Court of any case which may be pending in any court immediately before the establishment of the Drug Court.

31. **Drug Courts.**—(1) The Federal Government may, by notification in the official Gazette, establish as many Drug Courts as it considers necessary and, where it establishes more than one Drug Court, shall specify in the notification the territorial limits within which, or the class of cases in respect of which, each one of them shall exercise jurisdiction under this Ordinance.

(2) A Drug Court shall consist of a person who is, or has been, or is qualified for appointment as, a Judge of a High Court, who shall be the Chairman, and two persons who, in the opinion of the Federal Government, are experts in the medical or pharmaceutical fields.

(3) A Drug Court shall sit at such place or places as the Federal Government may direct.

(4) A Drug Court may pass any sentence authorised by this Ordinance and shall have otherwise all the powers conferred by the Code of Criminal Procedure, 1898 (Act V of 1898), on a Court of Session exercising original jurisdiction.

(5) A Drug Court shall not, merely by reason of a change in its composition, be bound to recall and rehear any witness who has given evidence, and may act on the evidence already recorded by or produced before it.

(6) A Drug Court shall, in all matters with respect to which no procedure has been prescribed by this Ordinance, follow the procedure prescribed by the Code of Criminal Procedure, 1898 (Act V of 1898), for the trial of summons cases by Magistrates.

(7) A person sentenced by a Drug Court may prefer an appeal to a bench of the High Court consisting of not less than two Judges within thirty days of the passing of the sentence.

32. **Pleas.**—(1) Save as hereafter provided in this section, it shall be no defence in a prosecution under this Ordinance to prove merely that the accused was ignorant of the nature, substance or quality of the drug in respect of which the offence has been committed or of the circumstances of its manufacture or import, or that a purchaser, having bought only for the purpose of test or analysis, has not been prejudiced by the sale.

(2) A drug shall not be deemed to be misbranded or adulterated or substandard only by reason of the fact that there has been added thereto some innocuous substance or ingredient because the same is required for the manufacture or preparation of the drug as an article of commerce in a state fit for carriage or consumption and not to increase the bulk, weight or measure of the drug or to conceal its inferior quality or other defect.

(3) A person, not being the manufacturer of a drug or his agent for the distribution thereof, shall not be liable for a contravention of section 23 if he proves—

(*a*) that he did not know, and could not with reasonable diligence have ascertained, that the drug in any way contravened the provision of this Ordinance and that the drug while in his possession remained in the same state as when he acquired it ; or (*b*) that he acquired the drug from a duly licensed manufacturer or his authorised agent or an importer or an indentor resident in Pakistan under a written warranty in the prescribed form stating, in particular, the batch number of the drug and signed by such person that the drug does not in any way contravene the provisions of section 23 and that the drug while in his possession was properly stored and remained in the same state as when he acquired it and that the drug has been manufactured by a manufacturer holding a valid licence to manufacture drugs and permission to manufacture that drug :

Provided that a defence under clause (b) shall be open to a person only—

(*i*) if he has, within seven days of the service on him of the summons, sent to the Inspector a copy of the warranty with a written notice stating that he intends to rely upon it and giving the name and address of the warrantor, and

(*ii*) if he proves that he has, within the same period, sent written notice of such intention to the said warrantor.

33. **Application of law relating to customs and powers of officers of customs.**—(1) The law for the time being in force relating to customs and to goods the import of which is prohibited by or under the Customs Act, 1969 (IV of 1969), shall, subject to the provisions of section 27 of this Ordinance, and officers of customs the import of which is prohibited under this Ordinance, and officers of customs and officers to whom any of the functions of an officer of customs have been entrusted under the said Act shall have the same powers in respect of such drugs as they have for the time being in respect of such goods as aforesaid.

(2) Without prejudice to the provisions of sub-section (1), an officer of customs or any officer authorised by the Federal Government in this behalf may detain any imported package which he suspects to contain any drug the import of which is prohibited under this Ordinance, and shall forthwith report such detention to the licensing authority and, if required by it, forward the package or samples of any suspected drug found therein to a laboratory specified by it.

34. **Offences by companies, etc.**—Where the person guilty of an offence under this Ordinance is a company, corporation, firm or institution, every director, pertner and officer of the company, corporation, firm or institution shall, unless he proves that the offence was committed without his knowledge or consent, by guilty of the like offence.

35. **Publication of offender's name.**—(1) If any person is convicted of an offence under this Ordinance, it shall be lawful for the Drug Court to cause the offender's name, place of residence, the offence of which he has been convicted and the penalty which has been inflicted upon him, to be published at the expense of such person in such news-papers or in such other manner as the Court may direct.

(2) The expenses of such publication shall be recoverable in the same manner as a fine is recoverable.

36. **Powers to exempt.**—Notwithstanding anything contained in this Ordinance, the Federal Government may, if it is of opinion that the public interest so requires, at any time, of its own motion or on a representation made to it, by notification in the official Gazette, exempt any drug or class of drugs from the operation of any of the provisions of this Ordinance, subject to such conditions, if any, and for such period, as may be specified in the notification.

37. **Inspectors to be public servants.**—Every Inspector shall be deemed to be a public servant within the meaning of section 21 of the Pakistan Penal Code (Act XLV of 1860), and shall be officially subordinate to such authority as the Government appointing him may specify in this behalf.

38. **Indemnity.**—Except as otherwise expressly provided in this Ordinance, no suit, prosecution or other legal proceeding shall lie against Government or any other authority or person for anything which is in good faith done or intended to be done under this Ordinance or any rule.

39. **Cancellation or suspension of licences.**—Where any person has been found to have contravened any other provisions of this Ordinance or the rules in respect of any drug and the contravention is of such a nature that the import, export, manufacture or sale of any drug by such person is, in the opinion of the licensing authority, likely to endanger public health, that authority may, after giving such person an opportunity of being heard, cancel the licence to import, export, manufacture or sell drugs issued to such person or suspend such licence for a specified period.

40. **Cancellation or suspension of registration of registered drugs.**—Where any person has been found to have contravened any of the provisions of this Ordinance or the rules in respect of any registered drug, the Registration Board may, after giving such person an opportunity of being heard, cancel the registration of such drug or suspend such registration for a specified period.

CHAPTER V

MISCELLANEOUS

41. **Power of Federal Government to make rules.**—(1) Subject to section 42, the Federal Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Ordinance.

(2) In particular and without prejudice to the generality of the foregoing provision, such rule may—

(a) prescribe the functions of the Federal Drug Laboratory and any other laboratory set up under section 14 or specified under section 22 or section 33 and the procedure for the submission to any such laboratory of samples of drugs for analysis or test, the forms of the laboratory's reports thereon and the fees payable in respect of such reports; and such other matters as may be necessary for any such laboratory to perform its functions ;

(b) prescribe specifications, including the strength, potency, purity, quality or other property, of any drug, and the methods of test or analysis to be employed in determining whether a drug is of required specifications ;

(c) prescribe the maximum proportion of any poisonous or other substance which may be added to or contained in any drug, or extracted or omitted thereform; prohibit the import, manufacture, sale or stocking or exhibition for sale or distribution of any drug in which that proportion is exceeded and specify substances which shall be deemed to be poisonous ;

(d) specify the drugs or classes of drugs for the import or export or which a licence is required, the testing of such drugs, and prescribe the form and conditions of such licences, the authority empowered to issue the same, and the fees payable therefor ;

(e) prescribe the places at which any specific drug or drugs may be imported, prohibit their import at any other place, and control their import through any specified agency ;

(f) prescribe the evidence to be supplied, whether by accompanying documents or otherwise, of the quality of drugs sought to be imported, the procedure of officers of customs in dealing with such evidence and the manner of storage at places of import of drugs detained pending admission ;

(g) prescribe the forms of licences for the manufacture for sale of drugs or any specified drugs or class of drugs, the form of application for such licences, the conditions subject to which such licence may be issued, the person under whose signature the same be issued and the fees payable therefor ;

(h) require the date of manufacture and the date of expiry of potency to be clearly and truly stated on the label or container of any specified drug or class of drugs and prohibit the sale, stocking or exhibition for sale or distribution of the said drug or class of drugs after the expiry of a specified period from the date of manufacture or after the expiry of the date of potency ;

(i) prescribe the conditions to be observed in the packing in bottles, packages and other containers of drugs and prohibit the sale, stocking or exhibition for sale or distribution of drugs packed in contravention of such conditions ;

(j) regulate the mode of packing and packaging, including its size, dimensions, fill and other specifications, the material used therefor and mode of labelling packed drugs and prescribe the matters which shall or shall not be included in such labels or on the leaflets accompanying the drugs ;

(k) require that the non-proprietary or chemical or accepted scientific name or the proprietary name of any specified drug or any ingredient thereof shall be displayed in the prescribed manner ;

(l) prescribe the requirements and conditions in respect of good practices in the manufacture and quality control of drugs ;

(m) prescribe conditions for distribution of samples for sales promotion of drugs ;

(n) prescribe the procedure for introduction in Pakistan of a new drug ;

(o) prescribe terms and conditions of members of the Central Licensing Board and the Registration Board ;

(p) prescribe types of registration of drugs, the form of application for such registration, the conditions subject to which such registration may be granted, the manner of registration and post-registration surveillance and deregistration of registered drugs and the fees payable therefor ;

(q) prescribe conditions for registration of indentors, importers, wholesalers and distributors within Pakistan and any establishment within any foreign country engaged in the manufacture for export of a drug and prescribe conditions providing effective and adequate means, by arrangement with the Government of such foreign country or otherwise, to enable the licensing authority to determine from time to time whether drugs manufactured in such establishment, if imported or offered for import into Pakistan, shall be refused admission where the public interest so requires ;

(r) prescribe the form of warranty for manufactured drugs ;

(s) specify offences in relation to which the stock of drugs, articles or things shall be liable to forfeiture under this Ordinance ;

(t) prescribe the qualifications, and regulate the procedure, powers and duties, of Federal Inspectors ;

(u) prescribe the laboratories to which the Federal Inspectors shall submit samples of drugs taken for the purpose of test and analysis and the form and procedure for submitting the report of such test and analysis and the fee payable therefor, where so required ;

(v) prescribe measures for securing and maintaining supplies of drugs at reasonable prices, conditions to be met in respect of manufacture, production, pricing, keeping, movement and disposal of drugs and to fix prices, commissions, discount of the manufacturer, wholesaler, distributor, retailer or any other dealer of drugs, to control giving of bonus in cash or kind or in any other manner to any of the said parties and for collecting or calling for any information, statistics, records or books with a view to regulating the matters aforesaid ;

(w) specify drugs which may be advertised and the conditions subject to which such drugs may be advertised ;

(x) prescribe conditions subject to which small quantities of drugs may be imported or manufactured or exported for the purpose of examination, test or analysis, clinical trial or personal use ; and

(y) prescribe any other matter which is to be, or may be, prescribed by the Federal Government.

(3) The power to make rules conferred by this section shall, except on the first occasion of the exercise thereof, be subject to the condition of previous publication.

42. **Power of the Provincial Government to make rules.**—(1) The Provincial Government may by notification in the official Gazette, make rules in respect of the following matters, namely :—

(a) the establishment of laboratories for testing and analysing of drugs ;

(b) the qualifications and the procedure, powers and duties of Provincial Inspectors ;

(c) the forms of reports to be given by Government Analysts and the manner of application for test or analysis and the fees payable therefor;

(d) the conditions to regulate sale or distribution of drugs or any specific drug or class of drugs ;

(e) the offences against this Ordinance or any rule in relation to which the stock of drugs shall be liable to confiscation and destruction under this Ordinance ;

(f) the forms of licences for the sale or distribution of drugs or any specified drug or class of drugs, the authority empowered to issue the same, the form of applications for such licences and the fees payable therefor;

(g) the conditions subject to which such licences may be issued ;

(h) the procedure to be followed by the Provincial Quality Control Board ; and

(i) any other matter which is to be, or may be, prescribed by the Provincial Government.

(2) The power to make rules conferred by this section shall, except on the first occasion of the exercise thereof, be subject to the condition of previous publication.

43. **Repeal and savings.**—(1) The Drugs Act, 1940 (XXIII of 1940), and the Drugs (Generic Names) Act, 1972 (XXIV of 1972), are hereby repealed.

(2) Notwithstanding the repeal of the Drugs Act, 1940 (XXIII of 1940), by sub-section (1), any licence issued to any person thereunder shall, unless it expires earlier under the terms thereof, continue to be valid for such period as the Federal Government may, by notification in the official Gazette, specify in this behalf.

FAZAL ELAHI CHAUDHRY,
President.

Countersigned
ZULFIKAR ALI BHUTTO,
Prime Minister.

ZIAUL HAQ CHANA,
Secretary.

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PART I

Acts, Ordinances, President's Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 25th January, 1976

No. F. 24 (1)|76-Pub.—The following Ordinance made by the President on the 25th January, 1976 is hereby published for general information :—

ORDINANCE No. V OF 1976

AN

ORDINANCE

further to amend the Political Parties Act, 1962

WHEREAS it is expedient further to amend the Political Parties Act, 1962 (III of 1962), for the purposes hereinafter appearing ;

AND WHEREAS the National Assembly is not in session and the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the Political Parties (Amendment) Ordinance, 1976.

(2) It shall come into force at once and shall be deemed to have taken effect on the twenty-ninth day of October, 1975.

Price : Ps. 12

[690 Ex. Gaz.]

2. **Amendment of section 8, Act III of 1962.**—In the Political Parties Act, 1962 (III of 1962), for section 8 the following shall be substituted, namely :—

"8. *Certain disqualifications for being a member of Parliament or a Provincial Assembly.*—A person who has—

(i) at any time on or after the twentieth day of December, 1971, been an office bearer of a political party dissolved under sub-section (2) of section 6 and has not, before a declaration in respect of such party is made by the Federal Government under sub-section (1) of that section, resigned from, or publicly announced his dissociation with, such party ; or

(ii) been convicted under section 7, shall be disqualified from being a member of Parliament or a Provincial Assembly and from being elected or chosen as such a member for a period of five years from the date of such dissolution or conviction, as the case may be.

Explanation.—In this section, "office bearer of a political party" means an office bearer at the National or Provincial set up of the party, but does not include a person—

(a) who is merely a member of the Working, Central, Provincial or other Committee of the party ; or

(b) who is an office bearer of the party below the Provincial set up.".

FAZAL ELAHI CHAUDHRY,
President.

Countersigned.
ZULFIKAR ALI BHUTTO,
Prime Minister.

ZIAUL HAQ CHANA,
Secretary.

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PART I

Acts, Ordinances, President's Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 30th January, 1976

No. F. 24 (1)|76-Pub.—The following Ordinance made by the President on the 28th January, 1976, is hereby published for general information :—

ORDINANCE No. VI OF 1976

AN

ORDINANCE

to provide for the conduct of elections to the reserved seats in the National Assembly and the Provincial Assemblies

WHEREAS it is expedient to provide for the conduct of elections to the reserved seats in the National Assembly and the Provincial Assemblies and to guard against corrupt and illegal practices and other offences at or in connection with such elections and for the determination of doubts and disputes arising out of or in connection with elections, and other matters arising out of or connected therewith ;

AND WHEREAS the National Assembly is not in session and the President is satisfied that circumstances exist which render it necessary to take immediate action ;

Price : Ps. 37

[740 Ex. Gaz.]

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President is pleased to make and promulgate the following Ordinance :—

CHAPTER I—PRELIMINARY

1. **Short title, extent and commencement.**—(1) This Ordinance may be called the National and Provincial Assemblies (Elections to Reserved Seats) Ordinance, 1976.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. **Definitions.**—In this Ordinance, unless there is anything repugnant in the subject or context,—

(i) "Article" means Article of the Constitution ;

(ii) "Assembly" means the National Assembly or a Provincial Assembly for a Province ;

(iii) "candidate" means a person seeking election as a member ;

(iv) "Commission" means the Election Commission constituted under Article 218 ;

(v) "Commissioner" means the Chief Election Commissioner appointed under the Constitution and includes—

  (i) the person continuing in the office of Chief Election Commissioner by virtue of Article 275 ; and

  (ii) a Judge of the Supreme Court nominated under Article 217 to act as Chief Election Commissioner ;

(vi) "constituency" means a constituency delimited under the Delimitation of Constituencies Act, 1974 (XXXIV of 1974), provided that in respect of a bye-election to a seat reserved for women, in the National Assembly or a Provincial Assembly, to be held at any time before the expiry of the term of the first National Assembly, it shall mean a constituency delimited under the Delimitation of Constituencies Order, 1970 (P. O. No. 3 of 1970) ;

(vii) "election" means election to a seat of a member held under this Ordinance ;

(viii) "election petition" means an election petition made under section 12 ;

(ix) "elector", in relation to an Assembly, means a person elected to a general seat in that Assembly ;

(x) "member" means member of an Assembly ;

(xi) "prescribed" means prescribed by rules made under this Ordinance ;

(xii) "returned candidate" means a candidate who has been declared elected as a member under this Ordinance;

(xiii) "Tribunal" means an Election Tribunal appointed under section 17 for the trial of election petitions.

CHAPTER II—ELECTION COMMISSION

3. **Procedure of the Commission.**—(1) Subject to the provisions of this section, the Commission shall regulate its procedure.

(2) If, upon any matter requiring a decision of the Commission, there is difference of opinion among its members, the opinion of the majority shall prevail and the decision of the Commission shall be expressed in terms of the opinion of the majority.

(3) The Commission may exercise its powers and perform its functions notwithstanding that there is a vacancy in the office of any one of its members or that any one of its members is, for any reason, unable to attend its proceedings and the decision of the other two members shall have the effect of the decision of the Commission:

Provided that, in the event of a difference of opinion between the two members attending the proceedings of the Commission,—

(a) if the Commissioner is one of the two members, his opinion shall prevail and the decision of the Commission shall be expressed in terms of that opinion; and

(b) in the other case, the matter shall be placed for a decision before the Commission.

4. **Power to punish for contempt.**—The Commission, the Commissioner and the members of the Commission shall have the same powers to punish its or their contempt as are vested in a High Court under Article 204.

5. **Delegation of powers, etc.**—The Commission may authorise its Chairman or any of its members or any of the officers of the Commission to exercise and perform all or any of its powers and functions under this Ordinance.

6. **Assistance to the Commission.**—(1) All executive authorities in the Federation and in the Provinces shall render such assistance to the Commissioner and the Commission in the discharge of his or their functions as may be required of them by the Commissioner or the Commission.

(2) The Commissioner or the Commission may require any person or authority to perform such functions or render such assistance for the purpose of this Ordinance as he or it may direct.

CHAPTER III—ELECTION TO SEATS RESERVED FOR WOMEN OR CERTAIN COMMUNITIES

7. **Election to reserved seats.**—(1) The members for seats reserved for women in an Assembly shall be elected, subject to the provisions of clause (5) of Article 51 or, as the case may be, clauses (4) and (5) of Article 106, by the persons elected to the general seats in that Assembly so that there is one member for each of the constituencies for seats reserved for women in that Assembly.

(2) The members for seats reserved in an Assembly for persons belonging to the Christian, Hindu, Sikh, Budhist and Parsi Communities and persons of the Quadiani group or the Lahori group (who call themselves 'Ahmadis') and other non-Muslims and persons belonging to the scheduled castes shall be elected, subject to the provisions of clause (4A) of Article 51 or, as the case may be, clause (5) of Article 106, by the persons elected to the general seats in that Assembly.

(3) The Commission shall hold and conduct the election to fill the seats reserved in an Assembly for the persons referred to in clause (3) of Article 106 or for women in such manner as it may think fit.

CHAPTER IV—ELECTION EXPENSES

8. **Definition.**—In this Chapter, "election expenses" means any expenditure incurred before, during and after an election or payment made, whether by way of gift, loan, advance, deposit or otherwise, for the arrangement, conduct or benefit of or in connection with, or incidental to, the election of a candidate, including the expenditure on account of issuing circulars or publications or otherwise presenting to the electors the candidate or his views, aims or objects.

9. **Restriction on election expenses.**—(1) No person shall, except as provided in sub-section (2), make any payment whatsoever towards the election expenses of a candidate except to such candidate.

(2) No person other than the candidate shall incur any election expenses of such candidate:

Provided that any person may, if so authorised by a candidate in writing specifying a maximum amount, to the extent of such amount, make payment for stationery, postage, telegram and other petty expenses.

(3) The election expenses of a candidate shall not exceed,—

(a) in the case of an election to a seat in the National Assembly, thirty-five thousand rupees;

(b) in the case of an election to a seat in a Provincial Assembly, twenty-five thousand rupees.

(4) Any person incurring any expenditure or making any payment under sub-section (2) shall, within fourteen days of the declaration of the result of the election, send to the candidate a statement of such expenditure or the particulars of such payment.

(5) A candidate shall, by a bill stating the particulars and by a receipt, vouch for every payment made in respect of election expenses, except where the amount is less than twenty-five rupees.

10. **Return of election expenses.**—(1) Every candidate shall, within forty-five days after the publication of the name of the returned candidate, submit to the Returning Officer a return of election expenses in the prescribed form containing:

(a) a statement of all payments made by the candidate together with all the bill and receipts;

(b) a statement of all disputed claims of which the candidate is aware ;

(c) a statement of all unpaid claims, if any, of which the candidate is aware ; and

(d) a statement of all moneys, securities or equivalent of money received from any person for the purpose of election expenses specifying the name of every such person.

(2) The return submitted under sub-section (1) shall be accompanied by an affidavit in the prescribed form sworn by the contesting candidate.

11. **Inspection of returns, etc.**—(1) The return and documents submitted under section 10 shall be kept by the Commissioner in his office or at such other convenient place as he may think fit and shall, during one year from the date of their receipt by him, be open to inspection by any person on payment of the prescribed fee.

(2) The Commissioner shall, on an application made in this behalf and payment of the prescribed fee, give any person copies of any return, or document kept under sub-section (1) or of any part thereof.

CHAPTER V—ELECTION DISPUTES

12. **Election Petition.**—(1) No election shall be called in question except by an election petition made by a candidate for that election (hereinafter in this Chapter referred to as the petitioner).

(2) An election petition shall be presented to the Commissioner within forty-five days of the publication in the official Gazette of the name of the returned candidate and shall be accompanied by a receipt showing that the petitioner has deposited at any branch of the National Bank of Pakistan or at a Government Treasury or sub-Treasury in favour of the Commissioner, under the prescribed head of account, as security for the costs of petition, a sum of one thousand rupees.

13. **Presentation of petition.**—(1) An election petition shall be presented by a petitioner and shall be deemed to have been presented—

(a) when it is delivered in person to the Secretary to the Commission or to such other officer as may be appointed by the Commission in that behalf,—

  (i) by the petitioner ; or

  (ii) by a person authorised in writing in this behalf by the petitioner ; or

(b) when delivered by registered post to the Secretary to the Commission or to such other officer as aforesaid.

(2) An election petition, if sent by registered post, shall be deemed to have been presented in time if it is posted within the period specified in sub-section (2) of section 12.

14. **Parties to the petition.**—The petitioner shall join all the candidates as respondents to his election petition and shall serve personally or by registered post on each such respondent a copy of his petition.

15. **Contents of petition.**—(1) Every election petition shall contain—

(a) a precise statement of the material facts on which the petitioner relies;

(b) full particulars of any corrupt or illegal practice or other illegal act alleged to have been committed, including as full a statement as possible of the names of the parties alleged to have committed such corrupt or illegal practice or illegal act and the date and place of the commission of such practice or act; and

(c) the relief claimed by the petitioner.

(2) A petitioner may claim as relief any of the following declarations, namely:—

(a) that the election of the returned candidate is void;

(b) that the election of the returned candidate is void and that the petitioner or some other person has been duly elected; or

(c) that the election as a whole is void.

(3) Every election petition and every schedule or annex to that petition shall be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908 (Act V of 1908), for the verification of pleadings.

16. **Procedure on receipt of petition by the Commissioner.**—(1) If the Commissioner finds that any provision of section 12, section 13 or section 14 has not been compiled with, the petition shall be dismissed forthwith.

(2) If an election petition is not dismissed under sub-section (1), the Commissioner shall refer it for trial to a Tribunal.

17. **Appointment of Tribunal.**—(1) For the trial of election petitions under this Ordinance, the Commissioner shall appoint as many Election Tribunals as may be necessary.

(2) An Election Tribunal shall consist of a person who is or has been a Judge of the Supreme Court or High Court.

18. **Power to transfer petition.**—The Commissioner, either of his own motion or on an application made in this behalf by any of the parties, may, at any stage, transfer an election petition from one Tribunal to another Tribunal and the Tribunal to which the election petition is so transferred—

(a) shall proceed with the trial of the petition from the stage from which it is transferred; and

(b) may, if it thinks fit, recall and examine any of the witnesses already examined.

19. **Place of trial.**—The trial of an election petition shall be held at such place or places as the Tribunal may think fit.

20. **Attorney-General, etc., to assist the Tribunal.**—In the case of an election petition relating to an election to the National Assembly, the Attorney-General for Pakistan, and in the case of such petition relating to an election to a Provincial Assembly, the Advocate-General for the Province, shall render to the Tribunal such assistance at the hearing of the petition as it may require.

21. **Appearance before Tribunal.**—Any appearance, application or act before a Tribunal may be made or done by a party in person or by an advocate or any other person entitled or allowed to plead in any civil court and duly appointed to act on his behalf:

Provided that the Tribunal may, where it considers it necessary, direct any party to appear in person.

22. **Procedure before Tribunal.**—(1) Subject to the provisions of this Ordinance and the rules, every election petition shall be tried, as nearly as may be, in accordance with the procedure for the trial of suits under the Code of Civil Procedure, 1908 (Act V of 1908):

Provided that the Tribunal may—

(a) make a memorandum of the substance of the evidence of each witness as his examination proceeds unless it considers that there is special reason for taking down the evidence of any witness in full; and

(b) refuse to examine a witness if it considers that his evidence is not material or that he has been called on a frivolous ground for the purpose of delaying the proceedings.

(2) Subject to the provisions of this Ordinance, the Evidence Act, 1872 (Act I of 1872), shall apply for the trial of an election petition.

(3) The Tribunal may, at any time, upon such terms and on payment of such fee as it may direct, allow a petition to be amended in such manner as may, in its opinion, be necessary for ensuring a fair and effective trial and for determining the real questions at issue, so, however, that no new ground of challenge to the election is permitted to be raised.

(4) At any time during the trial of an election petition, the Tribunal may call upon the petitioner to deposit such further sum by way of security, in addition to the sum deposited under section 12, as it may think fit.

23. **Dismissal of petition during trial.**—The Tribunal shall dismiss an election petition, if—

(a) the provisions of section 14 or section 15 have not been complied with; or

(b) if the petitioner fails to make the further deposit required under sub-section (4) of section 22.

24. **Powers of the Tribunal.**—The Tribunal shall have all the powers of a civil court trying a suit under the Code of Civil Procedure, 1908 (Act V of 1908), and shall be deemed to be a civil court within the meaning of sections 480 and 482 of the Code of Criminal Procedure, 1898 (Act V of 1898).

25. **Further provision relating to evidence and witnesses.**—(1) Notwithstanding anything to the contrary contained in any other law for the time being in force, no document shall be inadmissible in evidence at the trial of an election petition only on the ground that it is not duly stamped or registered.

(2) No witness shall be excused from answering any question as to any matter in issue, or relevant to a matter in issue, in the trial of an election petition upon the ground that the answer to such question may incriminate or tend to incriminate him or that it may expose or tend to expose him to any penalty or forfeiture ; but no witness shall be required or permitted to state for whom he has voted at an election.

(3) A witness who answers truly all questions which he is required to answer shall be entitled to receive a certificate of indemnity from the Tribunal and an answer given by him to a question put by or before the Tribunal shall not, except in the case of any criminal proceeding for perjury in respect of his evidence, be admissible in evidence against him in any civil or criminal proceedings.

(4) A certificate of indemnity granted to any witness under sub-section (3) may be pleaded by him in any court and shall be a full and complete defence to or upon any charge under Chapter IXA of the Pakistan Penal Code (Act XLV of 1860) or under this Ordinance arising out of the matter to which such certificate relates, but it shall not be deemed to relieve him from any disqualification in connection with an election imposed by any law for the time being in force.

(5) The reasonable expenses incurred by any person in attending to give evidence may be allowed to him by the Tribunal and shall, unless the Tribunal otherwise directs, be deemed to be part of the costs.

26. **Recrimination where seat is claimed.**—(1) Where in an election petition a declaration is claimed that a candidate other than the returned candidate has been duly elected, the returned candidate or any other party may produce evidence to prove that the election of such other candidate would have been declared void had he been the returned candidate and had a petition been presented calling his election in question :

Provided that the returned candidate or such other party as aforesaid shall not be entitled to give such evidence unless he or it has, within the fourteen days next following the commencement of the trial, given notice to the Tribunal of his intention so to do and has also deposited the security referred to in section 12.

(2) Every notice referred to in sub-section (1) shall be accompanied by a statement of the case, and all the provisions relating to the contents, verification, trial and procedure of an election petition, or to the security deposit in respect of an election petition, shall apply to such a statement as if it were an election petition.

27. **Decision of the Tribunal.**—(1) The Tribunal may, upon the conclusion of the trial of an election petition, make an order—

(a) dismissing the petition ;

(b) declaring the election of the returned candidate to be void ;

(c) declaring the election of the returned candidate to be void and the petitioner or any other candidate to have been duly elected ; or

(d) declaring the election as a whole to be void.

(2) The decision of a Tribunal on an election petition shall be final.

28. **Ground for declaring election of returned candidate void.**—(1) The Tribunal shall declare the election of the returned candidate to be void if it is satisfied that—

(a) the returned candidate was not qualified for, or was disqualified from, being elected as a member ; or

(b) the election of the returned candidate has been procured or induced by any corrupt or illegal practice ; or

(c) a corrupt or illegal practice has been committed by the returned candidate or by any other person with the connivance of the candidate.

(2) The election of a returned candidate shall not be declared void on the ground—

(a) that any corrupt or illegal practice has been committed, if the Tribunal is satisfied that it was not committed by, or with the consent or connivance of, that candidate and that the candidate took all reasonable precaution to prevent its commission ; or

(b) that any of the other candidates was not qualified for, or was disqualified from, being elected as a member.

29. **Ground for declaring a person other than a returned candidate elected.**—The Tribunal shall declare the election of the returned candidate to be void and the petitioner or any other candidate to have been duly elected, if it is so claimed by the petitioner or any of the respondents and the Tribunal is satisfied that the petitioner or such other candidate was entitled to be declared elected.

30. **Ground for declaring election as a whole void.**—The Tribunal shall declare the election as a whole to be void if it is satisfied that the result of the election has been materially affected by reason of—

(a) the failure of any person to comply with the provisions of this Ordinance or the rules ; or

(b) the prevalence of extensive corrupt or illegal practice at the election.

31. **Decision in case of equality of votes.**—(1) Where after the conclusion of the trial, it appears that there is an equality of votes between two or more candidates, and the addition of one vote for one candidate would entitle him to be declared elected, the Tribunal shall so inform the Commissioner who shall then direct a fresh poll to be taken in respect of the said candidates and fix a date for such poll.

(2) All the provisions of this Ordinance relating to preservation and inspection of documents shall apply to the fresh poll as at an election held under the provisions of this Ordinance.

32. **Other provisions relating to Tribunal.**—(1) An order of the Tribunal under section 27 shall take effect on the date on which it is made and shall be communicated to the Commissioner who shall publish it in the official Gazette.

(2) The Tribunal shall after an election petition has been disposed of, forward the record thereof to the Commissioner who shall retain it for a period of five years from the date of its receipt and shall thereafter cause it be destroyed.

33. **Withdrawal of petition.**—(1) An election petition may be withdrawn—

(a) before the Tribunal has been appointed, by leave of the Commissioner ; and

(b) after a Tribunal has been appointed, by leave of the Tribunal.

(2) Where leave is granted by the Tribunal, the petitioner shall be ordered to pay the costs incurred by the respondents to the election petition or such portion thereof as the Tribunal may direct.

34. **Abatement on death of petitioner.**—(1) An election petition shall abate on the death of a sole survivor of several petitioners.

(2) Where a petition abates under sub-section (1) after a Tribunal has been appointed, notice of the abatement shall be given by the Tribunal to the Commissioner.

35. **Death or withdrawal of respondent.**—If, before the conclusion of the trial of an election petition, a respondent dies or gives notice in the prescribed form that he does not intend to contest the petition, and no respondent remains to contest the petition, the Tribunal shall, without any further hearing, or after giving such person as it may think fit an opportunity of being heard, decide the case *ex-parte*.

36. **Failure of petitioner to appear.**—Where, at any stage of the trial of an election petition, no petitioner makes an appearance, the Tribunal may dismiss the petition for default, and make such order as to costs as it may think fit.

37. **Order as to costs.**—(1) The Tribunal shall, when making an order under section 27, also make an order determining in its discretion the costs and specifying the person by and to whom such costs are to be paid.

(2) If, in any order as to costs under sub-section (1) there is a direction for the payment of costs by any party to any person, such costs shall, if they have not already been paid, be payable in full and shall, upon application in writing in that behalf made to the Tribunal within six months of the order by the person to whom costs have been awarded, be paid, as far as possible, out of the security for costs deposited by such party.

(3) Where no costs have been awarded against a party who has deposited security for costs, or where no application for payment of costs has been made within the aforesaid six months, or where a residue remains after costs have been paid out of the security, such security or the residue thereof, as the case may be, shall, upon opplication in writing therefor by the person who made the deposit or by his legal representative, be returned by the Tribunal to the person making the application.

(4) Any order for costs may be enforced upon application in writing made to the principal civil court of original jurisdiction of the district in which the person from whom the costs are to be recovered resides or owns property, as if such order were a decree passed by that court:

Provided that no proceeding shall be brought under this sub-section except in respect of costs which have not been recovered by an application under sub-section (2).

CHAPTER VI

OFFENCES, PENALTY AND PROCEDURE

38. **Corrupt practice.**—A person is guilty of corrupt practice if he—

(1) contravenes the provisions of section 9;

(2) is guilty of bribery, personation or undue influence;

(3) makes or publishes a false statement concerning the personal character of a candidate or any of his relations calculated to adversely affect the election of such candidate or for the purpose of promoting or procuring the election of another candidate, unless he proves that he had reasonable grounds for believing, and did believe, the statement to be true; or

(4) calls upon or persuades any person to vote, or to refrain from voting, for any candidate on the ground that he belongs to a particular religion, community, race, caste, *bradari,* set or tribe.

39. **Bribery.**—A person is guilty of bribery, if he, directly or indirectly, by himself or by any other person on his behalf,—

(1) receives or agrees to receive or contracts for any gratification for voting or refraining from voting, or for being or refraining from being a candidate, at an election; or

(2) gives, offers or promises any gratification to any person—

(a) for the purpose of inducing—

(i) a person to be, or to refrain from being, a candidate at an election; or

(ii) an elector to vote, or refrain from voting, at an election: or

(b) for the purpose of rewarding a person for having been or for having refrained from being, a candidate at an election.

Explanation.—In this section, "gratification" includes a gratification in money estimable in money and all forms of entertainment or employment.

40. **Undue influence.**—A person is guilty of undue influence, if he—

(1) in order to induce or compel and person to vote or refrain from voting, or to offer himself as a candidate, at an election, directly or indirectly, by himself or by any other person on his behalf,—

(a) makes or threatens to make use of any force, violence or restraint;

(b) inflicts or threatens to inflict any injury, damage, harm or loss ;

(c) calls down or threatens to call down divine displeasure or the displeasure of any saint or *pir ;*

(d) gives or threatens to give any religious sentence ; or

(e) use any official influence or governmental patronage ; or

(2) on account of any person having voted or refrained from voting, or having offered himself as a candidate, does any of the acts specified in clause (1) ; or

(3) by abduction, duress or any fraudulent device or contrivance,—

(a) impedes or prevents the free exercise of the franchise by an elector ; or

(b) compels, induces or prevails upon any elector to vote or refrain from voting.

Explanation.—In this section, " harm " includes social ostracism or *ex*-communication or expulsion from any caste or community.

41. **Penalty for corrupt practice.**—Any person guilty of corrupt practice shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to five thousand rupees, or with both.

42. **Illegal practice.**—(1) A person is guilty of illegal practice if he—

(a) fails to comply with the provisions of section 10 ;

(b) obtains or procures, or attempts to obtain or procure, the assistance of any person in the service of Pakistan to further or hinder the election of a candidate ; or

(c) knowingly induces or procures any person to do any of the aforesaid acts.

(2) Any person guilty of illegal practice shall be punishable with fine which may extend to two thousand rupees.

43. **Assistance by Government servant.**—A person in the service of Pakistan is guilty of an offence punishable with imprisonment for a term which may extend to two years, or with fine which may extend to two thousand rupees, or with both, if he misuses his official position in a manner calculated to influence the result of the election.

44. **Certain offences cognizable.**—Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), an offence punishable under section 41 shall be cognizable offence.

45. **Court proceedings relating to election expenses.**—The Commission shall direct an officer subordinate to it to launch proceedings in the appropriate court against persons who contravene the provisions of section 9 or fail to comply with the provisions of section 10.

46. **Court to report convictions to the Commission.**—A court convicting any person for an offence punishable under this Chapter, other than corrupt practice, shall send a report to the Commission of such conviction together with its recommendations, if any, considering the special circumstances of any case, for the mitigation or remission of any disqualification incurred by such person under this Ordinance.

47. **Punishment under this Chapter not in derogation of any other Liability.**—Any punishment imposed on any person for an offence punishable under this Chapter shall be in addition to, and not in derogation of, any liability incurred by such person under any other provision of this Ordinance.

CHAPTER VII

DISQUALIFICATIONS

48. **Disqualifications.**—A person shall be disqualified from being elected as, and from being, a member of an Assembly, if :—

(a) he has been, on conviction for any offence, sentenced to imprisonment for a term of not less than two years, unless a period of five years has elapsed since his release ; or

(b) he has been dismissed or removed or compulsorily retired from the service of Pakistan, unless a period of five years has elapsed since his dismissal or removal or compulsory retirement ; or

(c) he, whether by himself or by any person in trust for him or for his benefit or on his account or as a member of a Hindu undivided family, has any share or interest in a contract, not being a contract between a co-operative society and Government, for the supply of goods to, or for the execution of any work or the performance of any service undertaken by Government :

Provided that the disqualification under this clause shall not apply to a person—

(i) where the share or interest in the contract devolves on him by inheritance or succession or as a legatee, executor or administrator, until the expiration of six months after it has so devolved on him ; or

(ii) where the contract has been entered into by or on behalf of a public company as defined in the Companies Act, 1913 (VII of 1913), of which he is a share-holder but is neither a director nor a person holding an office of profit under the company nor a managing agent ; or

(iii) where the contract entered into by him in the course of his trade or business with the Government for the supply of goods to, or for the execution of any work or the performance of any service undertaken by, that Government, does not subsist ;

Explanation.—A contract shall not be deemed to subsist by reason only of the fact that the person was enrolled as a contractor with the Government or that the Government has not performed its part of the contract, either wholly or in part.

(iv) where he is a member of a Hindu undivided family and the contract has been entered into by any other member of that family in the course of carrying on a separate business in which he has no share or interest ;

(d) he is a managing agent, manager or secretary of, or holds any other office carrying the right to remuneration in, any company or corporation (other than a cooperative society) in the capital of which the Government has not less than twenty-five per cent share or which is managed by the Government ; or

(e) he is found guilty of a corrupt or illegal practice under any other law for the time being in force, unless a period of five years has elapsed from the date on which that order takes effect ; or

(f) he holds any office of profit in the service of Pakistan other than the following offices, namely :—

(i) an office which is not a whole time office remunerated either by salary or by fee ;

(ii) the office of Lambardar, whether called by this or any other title ;

(iii) the Qaumi Razakars ;

(iv) any office the holder whereof, by virtue of holding such office, is liable to be called up for military training or military service under any law providing for the constitution or raising of a force.

Explanation.—For the avoidance of doubt, it is hereby declared that a Judge of the Supreme Court or a High Court, the Auditor-General and an Advocate-General are persons holding an office of profit in the service of Pakistan.

49. **Disqualification on account of certain offences.**—Where a person has been convicted for having exceeded the limit of election expenses laid down by section 9 or having failed to file the return of election expenses in accordance with section 10 or for any other offence under this Ordinance, or has been found guilty of any corrupt or illegal practice by a Tribunal, he shall, if the Commissioner makes an order to that effect, be disqualified, for such period not exceeding five years as may be specified in the order, from being, or being elected as, a member of an Assembly.

50. **Removal and remission of disqualification.**—The Commissioner may, on an application made in this behalf, remit any disqualification for failure to submit the return of election expenses or for any error or incorrect statement in such return, if he is satisfied that such failure or error occurred or incorrect statement was made due to circumstances beyond the control of the applicant.

CHAPTER VIII

MISCELLANEOUS

51. **Commission to ensure fair election, etc.**—Save as otherwise provided, the Commission may issue such instructions and exercise such powers, and make such consequential orders, as may, in its opinion, be necessary for ensuring that an election is conducted honestly, justly and fairly, and in accordance with the provisions of this Ordinance and the rules.

52. **Directions of Commission in certain matters.**—Anything required to be done for carrying out the purpose of this Ordinance for which no provision or no sufficient provision exists shall be done by such authority and in such manner as the Commission may direct.

53. **Jurisdiction of courts barred.**—No court shall question the legality of any action taken in good faith by or under the authority of the Commission or the Commissioner, or any decision given by the Commission or the Commissioner.

54. **Protection of action taken in good faith.**—No suit, prosecution or other legal proceeding shall lie against the Commission, the Commissioner or any officer or other person in respect of anything which is in good faith done or intended to be done under or in pursuance of this Ordinance or of any rule or order made or any direction given thereunder.

55. **Power to make rules.**—The Commissioner may, with the approval of the President, make rules for carrying out the purposes of this Ordinance.

56. **Commission to be construed as Commissioner in certain cases.**—For the purpose of holding an election to fill a casual vacancy in an Assembly, reference in this Ordinance to the Commission shall be construed as reference to the Commissioner.

57. **Repeal of Chapter V, Ordinance No. XIII of 1970.**—Chapter V of the National and Provincial Assemblies (Elections) Ordinance, 1970 (XIII of 1970), is hereby repealed.

FAZAL ELAHI CHAUDHRY,
President.

Countersigned.
ZULFIKAR ALI BHUTTO,
Prime Minister.

ZIAUL HAQ CHANA,
Secretary.

Islamabad, the 30th January, 1976

No. F. 24 (1)|76-Pub.—The following Ordinance made by the President on the 28th January, 1976 is hereby published for general information :—

ORDINANCE No VII OF 1976

AN

ORDINANCE

to amend the Compulsory Service in the Armed Forces Ordinance, 1971

WHEREAS it is expedient to amend the Compulsory Service in the Armed Forces Ordinance, 1971 (XXXI of 1971), for the purposes hereinafter appearing ;

AND WHEREAS the National Assembly is not in session and the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in exercise of the powers conferred by clause (I) of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the Compulsory Service in the Armed Forces (Amendment) Ordinance, 1976.

(2) I shall come into force at once.

2. **Amendment of section 1, Ordinance XXXI of 1971.**—In the Compulsory Service in the Armed Forces Ordinance, 1971 (XXXI of 1971), hereinafter referred to as the said Ordinance, in section 1, in sub-section (2),—

(a) in clause (a), after the semicolon at the end, the word "or" shall be added ;

(b) in clause (b), for the semicolon and word " ; or " a full stop shall be substituted ; and

(c) clause (c) shall be omitted.

3. **Amendment of section 2, Ordinance XXXI of 1971.**—In the said Ordinance, in section 2,—

(a) in clause (c), for the words and figure " ' essential person ' means a person registered under section 3 of " the words " ' essential persons ' means essential personnel as defined in " shall be substituted ;

(b) after clause (d), the following new clause shall be inserted, namely :—

" (dd) " Inducting Authority " means the Authority nominated by the Service Headquarters for the purpose of selecting essential persons below commissioned rank ; " ; and

(c) after clause (e), the following new clause shall be inserted, namely :—

" (ee) " Interview Board " means the Board constituted by the Service Headquarters for the purpose of selecting essential person for a commissioned rank ; ".

4. **Amendment of section 3, Ordinance XXXI of 1971.**—In the said Ordinance, in section 3, in sub-section (2), for the full stop at the end a colon shall be substituted and thereafter the following proviso and explanation shall be added, namely :—

" Provided that, in the case of a medical practitioner, such liability shall cease after he has served with the Armed Forces for a period of two years.

Explanation.—In this sub-section, ' medical practitioner ' means a person who possesses qualifications which are recognised medical qualifications, or, as the case may be, recognised dental qualifications, for the purposes of the Medical and Dental Council Ordinance, 1962 (XXXII of 1962). ".

5. **Amendment of section 4, Ordinance XXXI of 1971.**—In the said Ordinance, in section 4,—

(a) for sub-section (1) the following shall be substituted, namely :—

"(1) The Manpower Board, or such authority as may be empowered by it, shall, on requisition from any of the Service Headquarters, issue to such essential persons as are to be called up notices in writing requiring them, or direct such persons, to report in person to the Interview Board or, as the case may be, Inducting Authority at such time and place as may be specified in the notice or direction." ;

(b) in sub-section (2), after the word "notices", the words "or directions" shall be inserted ;

(c) in sub-section (3), after the word "notice", the words "or direction" shall be inserted ;

(d) for sub-section (4) the following shall be substituted, namely :—

"(4) Where such person is known to be serving in a department or office of Government or in an industrial undertaking, a copy of a notice, if any, under sub-section (1), shall at the same time be forwarded to the head of such department or office or, as the case may be, to the owner or manager of such undertaking requiring him to release such person so as to enable him to comply with such notice." ; and

(e) after sub-section (4) amended as aforesaid, the following new sub-section and explanation shall be added, namely :—

"(5) The owner or manager of an industrial undertaking referred to in sub-section (4) shall not—

(a) obstruct from joining service under this Ordinance in pursuance of a direction under sub-section (1) or sub-section (2) an essential person or *ex*-serviceman who serves upon him a notice of his intention to leave his employment or requests him in person to be released from such employment, or

(b) take any action against an essential person or *ex*-serviceman who, without of formal release from such employment, leaves such employment for joining service usder this Ordinance in pursuance of such direction.

Explanation.—In this section and sections 5, 6, 8 and 10, "direct", with all its grammatical variations, means to direct on the radio, through the press or by any other means.".

6. **Substitution of section 5, Ordinance, XXXI of 1971.**—In the said Ordinance, for section 5 the following shall be substituted, namely :—

"5. *Obligation to comply with call up notice or direction.*—A person to whom a notice or direction under section 4 has been issued shall report to the authority at the time, date and place specified in hte noice or, as the case may be, direction.".

7. **Amendment of section 6, Ordinance XXXI of 1971.**—In the said Ordinance, in section 6, for sub-section (1) the following shall be substituted, namely :—

"(1) A person—

(a) accepted for service under this Ordinance shall be deemed to have been commissioned, appointed or enrolled, as the case may be, and shall, as from the date he is so accepted, become subject to the law of the Armed Forces concerned, or

(b) provisionally accepted by the Interview Board for a commissioned rank and directed by that Board to wait for receipt of his commissioning orders at his place of present employment or residence shall be granted commission from the date he is finally accepted and shall, as from that date, become subject to the law of the Armed Forces concerned, and shall remain so subject until duly retired, released, discharged, removed or dismissed from service.".

8. **Substitution of section 8, Ordinance XXXI of 1971.**—In the said Ordinance, for section 8 the following shall be substituted, namely :—

"8. *Procedure for seeking exemption.*—(1) If a person to whom a notice or direction under sub-section (1) of section 4 has been issued seeks exemption from service under this Ordinance, he shall first report to the Interview Board or, as the case may be, Inducting Authority, at the time, date and place specified in the call up notice or direction and then submit a written representation to the Chairman, Interview Board, or, as the case may be, Inducting Authority, whose decision shall be final. (2) An *ex*-serviceman desirous of seeking exemption from service under this Ordinance may make a representation to the Service Headquarters concerned, whose decision shall be final.".

9. **Amendment of section 9, Ordinance XXXI of 1971.**—In the said Ordinance, in section 9—

(a) for sub-section (1) the following shall be substituted, namely :—

"(1) Subject to the other provisions of this section, every employer—

(a) by whom a person was released in pursuance of a notice served on such employer under sub-section (4) of section 4 for joining service under this Ordinance, or

(b) whose employment was left by a person in pursuance of a direction under the said section for joining such service, whether upon a formal release from such employment or otherwise, shall, on the termination of such service, reinstate such person in the employment or the assignment from which he was released or which he left and, if such reinstatement is less favourable to such person than that to which he would, in the ordinary course, have been entitled, give him such employment or assignment as is not less favourable :

Provided that the employer shall not be required to so reinstate or employ any person if such person does not apply or report to him for the purpose within three months of his release from service under this Ordinance." ;

(b) in sub-section (2), after the word "concerned", the words "or an authority empowered by the Federal Government" shall be inserted;

(c) in sub-section (3), after the word "Tribunal", the words and commas "or, as the case may be, the authority empowered under the said sub-section" shall be inserted; and

(d) in sub-section (5), after the word "Tribunal", the words "or authority" shall be inserted.

10. **Amendment of section 10, Ordinance XXXI of 1971.**—In the said Ordinance, in section 10, in sub-section (1), for clause (b) the following shall be substituted, namely:—

"(b) fails to report in response to a call up notice or direction issued under section 4;

(bb) does not release an essential person or *ex*-serviceman in accordance with a notice under sub-section (4) of section 4;

(bbb) obstructs from joining service under this Ordinance in pursuance of a direction an essential person or *ex*-serviceman who serves upon him a notice of his intention to leave his employment or requests him in person to be released from such employment;

(bbbb) takes any action against an essential person or *ex*-serviceman who, without a formal release from such employment, leaves such employment for joining service under this Ordinance in pursuance of a direction;

(bbbbb) fails to report for service on receipt of commissioning orders after having been provisionally accepted by the Interview Board but directed by it to wait for receipt of his commissioning orders at his place of present employment or residence;".

FAZAL ELAHI CHAUDHRY,
President.

Countersigned.
ZULFIKAR ALI BHUTTO,
Prime Minister.

ZIAUL HAQ CHANA,
Secretary.

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PART I

Acts, Ordinances, President's Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 31st January, 1976

No. F. 24 (1)|76-Pub.—The following Ordinance made by the President on the 31st January, 1976 is hereby published for general information :—

ORDINANCE No. VIII OF 1976

AN

ORDINANCE

further to amend the Law Reforms Ordinance, 1972

WHEREAS it is expedient further to amend the Law Reforms Ordinance, 1972 (XII of 1972), for the purpose hereinafter appearing ;

AND WHEREAS the National Assembly is not in session and the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President is pleased to make and promulgate the following Ordinance :—

1. Short title, extent and commencement.—(1) This Ordinance may be called the Law Reforms (Amendment) Ordinance, 1976.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

Price : Ps. 12

[761 Ex. Gaz.]

2. **Amendment of Ordinance XII of 1972.**—In the Law Reforms Ordinance, 1972, hereinafter referred to as the Ordinance, in the Schedule, in the provisions relating to the Code of Criminal Procedure, 1898 (Act V of 1898), in item 112, sub-item (i) shall be omitted and shall be deemed to have been omitted on the twenty-first December, 1975.

3. **Addition of new section 5, Ordinance XII of 1972.**—In the Ordinance, after section 4, the following new section shall be added, namely :—

"5. *Saving.*—Notwithstanding anything contained in this Ordinance,—

(a) the trial of a warrant case which was pending before a Magistrate immediately before the twenty-first day of December, 1975, and in which charge had been framed ; or

(b) any inquiry into a case triable by the Court of Session or High Court in which charge was framed, or in which the accused was committed for trial by the Court of Session or the High Court before the twenty-first day of December, 1975 ; shall be proceeded with and completed as if the provisions of the Schedule to this Ordinance relating to amendments in the Code of Criminal Procedure, 1898 (Act V of 1898), had not come into force :

Provided that any such case decided by a Magistrate, or any case in which the accused was committed for trial by the Court of Session or the High Court and decided by it, on or after the said twenty-first day of December, 1975, but before the commencement of the Law Reforms (Amendment) Ordinance, 1976, by following the procedure provided in the said Code as amended by this Ordinance, shall be deemed to have been validly decided.".

FAZAL ELAHI CHAUDHRY,
President.

Countersigned.
ZULFIKAR ALI BHUTTO,
Prime Minister.

ZIAUL HAQ CHANA,
Secretary.

CORRIGENDA

[*to the* Gazette of Pakistan, Extraordinary, *Part I, dated the 17th January, 1976 containing Ordinance No. IV of 1976.*]

Page 57 : In line 20, *for* " lable " *read* " label ".

" 63 : In line 10 from the bottom, *for* " warrant or " *read* " warrantor ".

" 64 : In line 23, *for* " be " *read* " to be ".

" " : In line 28, *for* " too do, " *read* " to do, ".

Page 65 : In line 8, *for* " has within " *read* " has, within ".

,, ,, : In line 7 from the bottom, *for* " ailment or " *read* " ailment, or ".

,, 66 : In line 8 from the bottom, *for* " ayurvadic " *read* " ayurvedic ".

,, 68 : In line 16 from the bottom, *for* " there to " *read* " thereto ".

,, 70 : In line 20, *for* " and officers of customs " *read* " apply in respect of drugs ".

,, ,, : In line 33, *for* " pertner " *read* " partner ".

,, ,, : In line 34, *for* " by " *read* " be ".

,, 71 : In line 10, *for* " other " *read* " of the ".

,, ,, : In line 8 from the bottom, *for* " thereform ; " *read* " therefrom ; ".

,, ,, : In line 4 from the bottom, *for* " or which " *read* "of which ".

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ISLAMABAD, THURSDAY, FEBRUARY 12, 1976

PART I

Acts, Ordinances, President's Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 12th February, 1976

No. F. 24(1)/76-Pub.—The following Ordinance made by the President on the 10th February, 1976 is hereby published for general information :—

ORDINANCE No. IX OF 1976

AN

ORDINANCE

to amend certain laws in pursuance of clause (4) of Article 8 of the Constitution of the Islamic Republic of Pakistan

WHEREAS it is necessary to amend certain laws in pursuance of clause (4) of Article 8 of the Constitution of the Islamic Republic of Pakistan ;

AND WHEREAS the National Assembly is not in session and the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title, extent and commencement.**—(1) This Ordinance may be called the Conformity with Fundamental Rights (Amendment of Laws) Ordinance, 1976.

(2) It extends to the whole of Pakistan, except the provisions of the Schedule relating to amendments in the Privately Managed Schools and Colleges (Taking Over) Regulation, 1972, which shall extend only to the Federal Capital.

(3) It shall come into force at once.

2. **Amendment of certain laws.**—The laws specified in the Schedule are hereby amended to the extent and in the manner specified in the second column thereof.

Price : Ps. 19

[879 Ex. Gaz.]

THE SCHEDULE

(*See* section 2)

Laws amended	Amendments made
1	2
The Criminal Law Amendment (Special Court) Order, 1972 (P.O. No. 20 of 1972).	In Article 3, in clause (1), for the full stop at the end a colon shall be substituted and thereafter the following proviso shall be added, namely :— " Provided that no such notification shall be issued after the thirteenth day of February, 1976.".
The Privately Managed Schools and Colleges (Taking Over) Regulation, 1972.	1. In paragraph 2,— (*a*) in clause (b), for the words " maintained and" the words and comma "owned, maintained or" shall be substituted ; and (*b*) in clause (c), for the words "maintained and " the words and comma "owned, maintained or " shall be substituted. 2. For paragraph 3 the following shall be substituted, namely:— " 3 (1) Except with the prior permission of the Federal Government and subject to such conditions as it may, in the public interest, impose, no person who owns or manages any privately-managed college or privately-managed school shall close such college or school or suspend its working or in any manner transfer any property of, or attached to, such college or school or any interest therein. (2) Any contract or agreement made or entered into at any time on or after the fifteenth day of March, 1972, in contravention of the provisions of sub-paragraph (1) shall be void.". 3. In paragraph 5, for the fullstop at the end a colon shall be substituted and thereafter the following proviso shall be added, namely :— " Provided that no such notification shal be issued in respect of a privately-managed school unless the Federal Government is satisfied that such school cannot be run on a

1	2
	genuinely benevolent, philanthropic or non-commercial basis, or is not maintaining proper standards.".
	4. In paragraph 6,—
	(*a*) in sub-paragraph (1), after the word " it " at the end, the commas and words ", except with the prior permission of the Federal Government and subject to such conditions as it may, in the public interest, impose " shall be added ; and
	(*b*) in sub-paragraph (2), for the words " All changes " the words, brackets, figure and comma " Subject to the provisions of sub-paragraph (1), any change " shall be substituted.
	5. In paragraph 7, in sub-paragraph (1), in clause (b),—
	(*a*) after the brackets, figure and comma "(2),", the words and comma " or except with the prior permission of the Federal Government, " shall be inserted ; and
	(*b*) for the full stop at the end a colon shall be substituted and thereafter the following proviso shall be added, namely :—
	" Provided that, with the general or special permission of the Federal Government, any person may be promoted, employed or engaged, on such terms and conditions as may be approved by the Federal Government, against a newly-created post or a vacancy caused by the retirement, or expiry of the stipulated period of employment, or termination of services in accordance with the terms and conditions of his employment, of a person who was employed or engaged before the fifteenth day of March, 1972.".
	6. In paragraph 12, for the word " and " the word " or " shall be substituted.
The Trade Organizations Ordinance, 1961 (XLV of 1961).	1. In section 3, in sub-section (6), for the full stop at the end a colon shall be substituted and thereafter the following proviso shall be added, namely :—
	" Provided that no such exemption shall be granted to a trade organization unless the appropriate Government is

1	2
	satisfied that it would be in the public interest to do so.". 2. In section 4, in sub-section (1), in clause (c), for the full stop at the end a colon shall be substituted and thereafter the following proviso shall be added, namely:— " Provided that no licence shall be revoked under clause (a), and no such exemption shall be cancelled, unless the appropriate Government is satisfied that it would be in the public interest to do so.".
The Censorship of Films Act, 1963 (XVIII of 1963).	1. In the preamble, for the words and commas " law and order, or in the interest of local film industry, or in any other national interest " the words and commas " the glory of Islam or the integrity, security or defence of Pakistan or any part thereof, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court or commission of, or incitement to, an offence " shall be substituted. 2. In section 4, in sub section (5), after the word " if ", the commas and words ", in the interest of the glory of Islam or the integrity, security or defence of Pakistan or any part thereof, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court or commission of , or incitement to, an offence," shall be inserted. 3. In section 5, after sub-section (5), the following new sub-section shall be added, namely :— "(6) No order shall be made by an authority under clause (b) of sub-section (1), or by a District Magistrate under sub-section (2), or by the Federal Government under sub-section (4) or sub-section (5), unless the authority, the District Magistrate or the Federal Government, as the case may be, is satisfied that it is necessary to do so in the interest of the glory of Islam or the integrity, security or defence of Pakistan or any part thereof, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court or commission of, or incitement to, an offence.".

1	2
	4. In section 7, for the words and commas "law and order, or in the interest of local film industry, or in any other national interest" the words and commas "the glory of Islam or the integrity, security or defence of Pakistan or any part thereof, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court or commission of, or incitement to, an offence" shall be substituted.

FAZAL ELAHI CHAUDHRY,
President.

Countersigned.
ZULFIKAR ALI BHUTTO,
Prime Minister.

ABDUL HAYEE KURESHI,
Secretary.

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PART I

Acts, Ordinances, President's Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS
(Law Division)

Islamabad, the 13th February, 1976

No. F. 24 (1)|76-Pub.—The following Ordinance made by the President on the 13th February, 1976 is hereby published for general information :—

ORDINANCE NO. X OF 1976

AN

ORDINANCE

to withdraw the remission of sentences granted to, or earned by, certain prisoners

WHEREAS it is expedient to withdraw the remission of sentences granted to, or earned by, certain prisoners ;

AND WHEREAS the National Assembly is not in session and the President is satisfied that circumstances exist which render it necessary to take immediate action ;

AND WHEREAS the Proclamation of Emergency referred to in Article 280 of the Constitution of the Islamic Republic of Pakistan is in force ;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title and extent.**—(1) This Ordinance may be called the Withdrawal of Remission of Sentences Ordinance, 1976.

(2) It extends to the whole of Pakistan.

2. **Withdrawal of remission of sentences.**—Notwithstanding any remission of sentences granted to, or earned by, a prisoner awarded punishment by a Court Martial for an offence under section 55 or section 59 of the Pakistan Army Act, 1952 (XXXIX of 1952), or by any Court or Tribunal under the High Treason (Punishment) Act, 1973 (LXVIII of 1973), the Suppression of Terrorist Activities (Special Courts) Act, 1975 (XV of 1975), the Criminal Law Amendment (Special Court) Ordinance, 1975 (XXIX of 1975), under Chapter VI of the Pakistan

Price : Ps. 13

Penal Code (Act XLV of 1860), or the Defence of Pakistan Rules, such prisoner shall undergo full term of his imprisonment and sentence and the remission shall be deemed to have never been granted or earned, irrespective of any other law or the judgement or order of any court.

3. **Repeal.**—The Punjab Withdrawal of Remission of Sentences Ordinance, 1976 (Punjab Ordinance No. II of 1976), is hereby repealed.

FAZAL ELAHI CHAUDHRY,
President.

Countersigned.
ZULFIKAR ALI BHUTTO,
Prime Minister.

ABDUL HAYEE KURESHI,
Secretary.

CORRIGENDA

[*to the* Gazette of Pakistan, Extraordinary (*Part I*), *dated the* 25*th November*, 1975 *and* 18*th December*, 1975 *containing Act Nos. LXXI of* 1975 *and LXXVII to LXXXI of* 1975.]

Page No. 581—20th line from bottom *for* " 'total membership' " *read* " " total membership " ".

Page No. 584—at serial No. 18 *for* " Revocation " *read* "(Revocation ".

Page No. 600—12th line from bottom *for* " and execute " *read* " and to execute".

[*to the* Gazette of Pakistan, Extraordinary (*Part I*), *dated the* 3*rd July*, 1975, 28*th July*, 1975 *and* 29*th July*, 1975 *containing Act Nos. LI of* 1975, *LVIII to LX of* 1975 *and LXI to LXIV of* 1975.]

Page No. 374—15th line from bottom *for* " Stateion " *read* " Station ".

,, ,, 375—1st line from bottom *for* " for, is " *read* " for, or is ".

,, ,, 376—1st line from top omit the word " for " occurring after the word " voting ".

,, ,, ,, —Read the following after sub-clause (a) of clause 65—

"(b) solicits the vote of any voter ; ".

,, ,, 378—13th line from bottom *for* "banner flag " *read* "banner or flag".

,, ,, 379—7th line from top *for* "in " *read* "is ".

,, ,, ,, —20th line from top *for* "as " *read* "as,".

,, ,, ,, —7th line from bottom *for* " tractor " *read* " trator ".

,, ,, 403—Read sub-clause (2) of clause 6 as follows :—

"(2) The provisions of sub-section (1) shall also apply to the family of the President."

,, ,, 408—12th line from bottom *for* " necessary " *read* " necessary,".

,, ,, 415—15th line from bottom *for* " Ministry " *read* " Minister ".

,, ,, 421—6th line from top *for* " Order " *read* " Orders ".

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PART I

Acts, Ordinances, President's Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 19th February, 1976

No. 24 (1)|76-Pub.—The following Ordinance made by the President on the 18th February, 1976 is hereby published for general information :—

ORDINANCE No. XI OF 1976

AN

ORDINANCE

to amend the Criminal Law Amendment (Special Court) Ordinance, 1975

WHEREAS it is expedient to amend the Criminal Law Amendment (Special Court) Ordinance, 1975 (XXIX of 1975), for the purposes hereinafter appearing ;

AND WHEREAS the National Assembly is not in session and the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the Criminal Law Amendment (Special Court) (Amendment) Ordinance, 1976.

(2) It shall come into force at once.

2. **Amendment of section 6, Ordinance XXIX of 1975.**—In the Criminal Law Amendment (Special Court) Ordinance, 1975 (XXIX of 1975), hereinafter referred to as the said Ordinance, in section 6, for sub-section (1) the following shall be substituted, namely :—

"(1) The Special Court shall have, in respect of a case triable by it, all the powers which a High Court has in relation to trial before it under the Code, but shall, notwithstanding anything contained in the Code, proceed with the trial in the following manner, namely :—

(a) as soon as the accused appears or is brought before the Special Court, the formal charges referred to in section 5 shall be read

Price : Ps. 13

[952 Ex. Gaz.]

and explained to the accused, and he shall be asked whether he is guilty or has any defence to make ;

(b) if the accused pleads guilty, the Special Court shall record the plea, and may in its discretion convict him thereon ;

(c) if the accused pleads not guilty or refuses to plead, or claims to be tried, the Special Court shall proceed to take all such evidence as may be produced in support of the prosecution ;

(d) on the close of the evidence of the prosecution, the Special Court shall examine the accused and record his statement as required by section 342 of the Code and, if the accused puts in any written statement, the Special Court shall file it with the record ;

(e) after such statement of the accused as is referred to in clause (d) is recorded, the Special Court shall call upon the accused to enter upon his defence, and shall examine all such witnesses as may be produced by the accused or called at the instance of the accused :

Provided that the Special Court may refuse to examine or call any such witness, if the Special Court is satisfied that the accused intends to call or examine such witness to cause vexation or delay or to defeat the ends of justice ;

(f) after all the evidence referred in the foregoing clauses is recorded, the Special Court shall hear the prosecutor and defence counsel, and on conclusion of the same shall proceed to pronounce its judgment ;

(g) the persons mentioned in the list of accused persons referred to in sub-section (1) of section 5 and the offences with which they are charged shall be tried together ;

(h) the proceedings of the Special Court shall be recorded under its direct supervision :

Provided that, if the Special Court so directs, the evidence of any witness may be taken down in shorthand or typescript by a person specially appointed for the purpose ; and the transcript of the shorthand or the typescript with necessary corrections shall form part of the record ; and

(i) all orders and proceedings and the evidence of each witness shall be signed by at least two members of the Special Court and the final judgment shall be signed by each of the three members. ".

3. **Amendment of section 8, Ordinance XXIX of 1975.**—In the said Ordinance, in section 8, after the word " public " at the end, the words " but only such part of the proceedings shall be published as may be approved by the Special Court " shall be added.

4. **Amendment of section 9, Ordinance XXIX of 1975.**—In the said Ordinance, in section 9, for the comma and words " , if such accused person is represented by counsel " the words " due to illness " shall be substituted.

5. **Amendment of section 10, Ordinance XXIX of 1975.**—In the said Ordinance, in section 10, in sub-section (1),—

(a) in clause (b), the word " and " at the end shall be omitted ;

(b) in clause (c), for the colon at the end the semi-colon and word " ; and " shall be substituted ;

(c) after clause (c), amended as aforesaid, the following new clause shall be inserted, namely :—

> "(d) the conclusions arrived at by the Supreme Court in its decision on a reference made to it under sub-section (2) of section 6 of the Political Parties Act, 1962 (III of 1962) : " ; and

(d) in the proviso, for the words "or judgment" the comma and words ", judgment, conclusion or decision" shall be substituted.

FAZAL ELAHI CHAUDHRY,
President.

Countersigned.
ZULFIKAR ALI BHUTTO,
Prime Minister.

ABDUL HAYEE KURESHI,
Secretary.

Islamabad, the 19th February, 1976

No. F. 24 (1)|76-Pub.—The following Ordinance made by the President on the 18th February, 1976 is hereby published for general information :—

ORDINANCE No. XII OF 1976

AN

ORDINANCE

further to amend the Legal Practitioners and Bar Councils Act, 1973

WHEREAS it is expedient further to amend the Legal Practitioners and Bar Councils Act, 1973 (XXXV of 1973), for the purpose hereinafter appearing ;

AND WHEREAS the National Assembly is not in session and the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the Legal Practitioners and Bar Councils (Amendment) Ordinance, 1976.

(2) It shall come into force at once.

2. **Amendment of section 26, Act XXXV of 1973.**—In the Legal Practitioners and Bar Councils Act, 1973 (XXXV of 1973), in section 26, in sub-section (1), in clause (a), in the proviso, after the word "country", occurring for the first time, the words "who has resided in Pakistan for a period of not less than one year immediately preceding the day on which he applies for admission" shall be inserted.

FAZAL ELAHI CHAUDHRY,
President.

Countersigned.
ZULFIKAR ALI BHUTTO,
Prime Minister.

ABDUL HAYEE KURESHI,
Secretary.

Islamabad, the 19th February, 1976

No. 24 (1)76-Pub.—The following Ordinance made by the President on the 18th February, 1976 is hereby published for general information :—

ORDINANCE No. XIII OF 1976

AN

ORDINANCE

further to amend the National Guards Act, 1973

WHEREAS it is expedient further to amend the National Guards Act, 1973 (LXI of 1973), for the purposes hereinafter appearing ;

AND WHEREAS the National Assembly is not in session and the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 89 of the Constitution, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the National Guards (Amendment) Ordinance, 1976.

(2) It shall come into force at once.

2. **Amendment of section 36, Act LXI of 1973.**—In the National Guards Act, 1973 (LXI of 1973), after section 36, the following new section shall be inserted, namely :—

> " 36A. *Re-employment of officers having reserve liability.*—The Federal Government or any prescribed authority may re-employ suitable retired officers of the Pakistan Army having reserve liability for service with any of the Forces :
>
> Provided that such re-employment shall not relieve the retired officers of their reserve liability. "

FAZAL ELAHI CHAUDHRY,
President.

Countersigned.

ZULFIKAR ALI BHUTTO,
Prime Minister.

ABDUL HAYEE KURESHI,
Secretary.

CORRIGENDA

[*to the* Gazette of Pakistan, Extraordinary, *Part I, dated the 29th January,* 1976 *containing the President's Order No.* 1 *of* 1976]

Page 77 : In line 12, *for* " expendient " *read* " expedient ".

In line 20, *for* " froce " *read* " force ".

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PART I

Acts, Ordinances, President's Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS
(Law Division)

Islamabad, the 20th February, 1976

No. F. 24 (1)|76-Pub.—The following Ordinance made by the President on the 18th February, 1976 is hereby published for general information :—

THE FOREIGN PRIVATE INVESTMENT (PROMOTION AND PROTECTION) ORDINANCE, 1976

ORDINANCE No. XIV OF 1976

AN

ORDINANCE

to provide for the promotion and protection of foreign private investment in Pakistan.

WHEREAS it is expedient to provide for the promotion and protection of foreign private investment in Pakistan, and for matters ancillary thereto ;

AND WHEREAS the National Assembly is not in session and the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President is pleased to make and promulgate the following Ordinance :—

1. Short title, commencement and application.—(1) This Ordinance may be called the Foreign Private Investment (Promotion and Protection) Ordinance, 1976.

(2) It shall come into force at once.

Price : Ps. 13

[969 Ex. Gaz.]

(3) It shall apply to all industrial undertakings in Pakistan having foreign private investment established with the approval of the Federal Government after the first day of September, 1954:

Provided that nothing in this Ordinance shall be in derogation of any facilities or protection specifically sanctioned by the Federal Government to foreign private investment in the case of a particular industrial undertaking or a class of industrial undertakings or such facilities or protection as may be available to foreign private investment under a bilateral investment treaty.

2. **Definitions.**—(1) In this Ordinance, unless there is anything repugnant in the subject or context,—

- (a) "foreign capital" means investment made by a foreigner in an industrial undertaking in Pakistan—
  - (i) in the form of foreign exchange, imported machinery and equipment, or
  - (ii) in any other form which the Federal Government may approve for the purpose;
- (b) "foreign private investment" means investment in foreign capital by a person who is not a citizen of Pakistan or by a company incorporated outside Pakistan, but does not include investment by a foreign Government or agency of foreign Government;
- (c) "industrial undertaking" means an industry, undertaking or establishment engaged in the production, distribution or processing of any goods, the providing of services specified in this behalf by the Federal Government or the development and extraction of such mineral resources and products as may be specified in this behalf by the Federal Government.

(2) Words and expressions used but not defined in this Ordinance shall have the same meanings as in the Companies Act, 1913 (VII of 1913).

3. **Field for foreign private investment.**—The Federal Government may, consistent with the national interest, for the promotion of foreign private investment, authorise such investment in any industrial undertaking—

- (a) which does not exist in Pakistan and the establishment whereof, in the opinion of the Federal Government, is desirable; or
- (b) which is not being carried on in Pakistan on a scale adequate to the economic and social needs of the country; or
- (c) which will contribute to—
  - (i) the development of capital, technical and managerial resources of Pakistan;
  - (ii) the discovery, mobilisation or better utilization of the national resources;
  - (iii) the strengthening of the balance of payments of Pakistan;
  - (iv) increasing employment opportunities in Pakistan; or
  - (v) the economic development of the country in any other manner.

4. **Approval of foreign private investment.**—Where the Federal Government sanctions an industrial undertaking having foreign private investment, it may do so subject to such conditions as it may specify in this behalf.

5. **Protection of agreements.**—(1) Where the Federal Government considers it necessary in the public interest to take over the management of an industrial undertaking having foreign private investment or to acquire the ownership of the shares of citizens of Pakistan in the capital of such industrial undertaking, any agreement approved by the Federal Government relating to such undertakings entered into between a foreign investor or creditor and any person in Pakistan shall not be affected by such taking over or acquisition.

(2) Foreign capital or foreign private investment in an industrial undertaking shall not be acquired except under due process of law which provides for adequate compensation therefor to be settled in the currency of the country of origin of the capital or investment and specifies the principles on and the manner in which compensation is to be determined and given.

6. **Repatriation facilities.**—Subject to the provisions of the Foreign Exchange Regulation Act, 1947 (VII of 1947),—

(a) a foreign investor in an industrial undertaking established after the 1st day of September, 1954, and approved by the Federal Government, may at any time repatriate in the currency of the country from which the investment originated—

(i) foreign private investment to the extent of original investment;

(ii) profits earned on such investment; and

(iii) any additional amount resulting from the re-invested profits or appreciation of capital investment; and

(b) a creditor of an industrial undertaking referred to in clause (a) may repatriate foreign currency loans approved by the Federal Government and interest thereon in accordance with the terms and conditions of the said loan:

Provided that nothing in this section shall affect the terms of the permission to make such investment granted to a foreign investor before the commencement of this Ordinance.

7. **Remittances by foreign employees.**—Foreign nationals employed with the approval of the Federal Government in any industrial undertaking having foreign private investment may make remittances for the maintenance of their dependants in accordance with the rules, regulations or orders issued by the Federal Government or the State Bank of Pakistan.

8. **Tax concession and avoidance of double taxation.**—(1) The Federal Government may allow such concessions to industrial undertakings having foreign private investment as may be admissible under any law for the time being in force.

(2) Foreign private investment shall not be subject to other or more burdensome taxes on income than those applicable to investment made in similar circumstances by citizens of Pakistan.

(3) Foreign private investment shall be allowed all the tax concessions which may be admissible on the basis of any agreement for avoidance of double taxation which the Government of Pakistan may have entered into with the Government of the country of origin of such investment.

9. **Equal treatment.**—Industrial undertakings having foreign private investment shall be accorded the same treatment as is accorded to similar industrial undertakings having no such investment in the application of laws, rules and regulations relating to importation and exportation of goods.

10. **Removal of difficulties.**—If any difficulty arises in giving effect to any provisions of this Ordinance, the Federal Government may make such order, not inconsistent with the provisions of this Ordinance, as may appear to it to be necessary for the purpose of removing the difficulty :

Provided that no such power shall be exercised after the expiry of one year from the commencement of this Ordinance.

11. **Power to make rules.**—The Federal Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Ordinance, and such rules may, among other matters, provide for the employment of Pakistani and foreign nationals in industrial undertakings having foreign private investment.

FAZAL ELAHI CHAUDHRY,
President.

Countersigned.

ZULFIKAR ALI BHUTTO,
Prime Minister.

C. A. RAHMAN,
Joint Secretary.

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ISLAMABAD, THURSDAY, APRIL 8, 1976

PART I

Acts, Ordinances, President's Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS
(Law Division)

Islamabad, the 8th April, 1976

No. F. 24 (I)|76-Pub.—The following Ordinance made by the President on the 8th April, 1976, is hereby published for general information :—

ORDINANCE No. XV OF 1976

AN

ORDINANCE

to provide for the abolition of the system of Sardari and for matters ancillary thereto ;

WHEREAS the system of Sardari, prevalent in certain parts of Pakistan, is the worst remnant of the oppressive feudal and tribal system which, being derogatory to human dignity and freedom, is repugnant to the spirit of democracy and equality as enunciated by Islam and enshrined in the Constitution of the Islamic Republic of Pakistan and opposed to the economic advancement of the people ;

AND WHEREAS the Proclamation of Emergency referred to in Article 280 of the Constitution of the Islamic Republic of Pakistan is in force ;

AND WHEREAS the National Assembly is not in session ;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title, commencement and application.**—(1) This Ordinance may be called the System of Sardari (Abolition) Ordinance, 1976.

Price : Ps. 19

[1523 Ex. Gaz.]

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. **Definition.**—In this Ordinance, unless there is anything repugnant in the subject or context, "Sardar" means a person who is recognized as a Sardar, Tumandar or Chief of the tribe or who, under any custom or usage or otherwise, exercises any of the powers as mentioned in section 3 of this Ordinance.

3. **Abolition of System of Sardari.**—Notwithstanding any custom or usage, as from the commencement of this Ordinance, the system of Sardari shall stand abolished and no person shall—

(a) exercise any judicial powers not expressly conferred on him by or under any law for the time being in force ; or

(b) maintain any private jail ; or

(c) save as provided in the Code of Criminal Procedure, 1898 (Act V of 1898), or any other law for the time being in force, arrest or keep in custody any person ; or

(d) take free labour from any person or compel any person to labour against his will ; or

(e) demand or receive, by reason of being or having been a Sardar, any tribute or any other payment, whether in cash or in kind.

4. **Saving.**—Notwithstanding anything contained in this Ordinance, Government may grant to any person such individual service allowance as it may deem fit and require such person to discharge such duties and perform such functions as Government may from time to time, direct.

5. **Penalty.**—Whoever contravenes any provision of this Ordinance shall be punishable with imprisonment of either description for a term which may extend to hree years, or wih fine which may extend to ten thousand rupees, or with both.

FAZAL ELAHI CHAUDHRY,
President.

Countersigned.

ZULFIKAR ALI BHUTTO,
Prime Minister.

ABDUL HAYEE KURESHI,
Secretary.

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PART I

Acts, Ordinances, President's Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS
(Law Division)

Islamabad, the 14th April, 1976

No. F. 24 (1)|76-Pub.—The following Ordinance made by the President on the 13th April, 1976 is hereby published for general information :—

ORDINANCE No. XVI OF 1976

AN

ORDINANCE

further to amend the Criminal Law Amendment (Special Court) Ordinance, 1975

WHEREAS it is expedient further to amend the Criminal Law Amendment (Special Court) Ordinance, 1975 (XXIX of 1975), for the purposes hereinafter appearing ;

AND WHEREAS the National Assembly is not in session and the President

Price : Ps. 19

[1562 Ex. Gaz.]

is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title, extent and commencement.**—(1) This Ordinance may be called the Criminal Law Amendment (Special Court) (Second Amendment) Ordinance, 1976.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. **Amendment of section 5, Ordinance XXIX of 1975.**—In the Criminal Law Amendment (Special Court) Ordinance, 1975 (XXIX of 1975), hereinafter referred to as the said Ordinance, in section 5, in sub-section (3),—

(a) after the words "list of", the words "accused persons or" shall be inserted ; and

(b) in clause (b), after the words "names of", the words "accused persons or" shall be inserted.

3. **Amendment of section 6, Ordinance XXIX of 1975.**—In the said Ordinance, in section 6, in sub-section (1),—

(a) after clause (c), the following new clause shall be inserted, namely :—

"(cc) if any accused is added to the list of accused persons referred to in sub-section (1) of section 5 after the examination of any witness and if such accused pleads not guilty or refuses to plead, or claims to be tried, or is not convicted by the Special Court on his plea of guilt (if made), the Special Court may recall and rehear all such witnesses whose evidence in its opinion affects such accused ; " ; and

(b) in clause (g), the words, brackets and figure " sub-section (1) of " shall be omitted.

FAZAL ELAHI CHAUDHRY,
President.

Countersigned.

ZULFIKAR ALI BHUTTO,
Prime Minister.

ABDUL HAYEE KURESHI,
Secretary.

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ISLAMABAD, MONDAY, MAY 17, 1976

PART I

Acts, Ordinances, President's Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS
(Law Division)

Islamabad, the 17th May, 1976

No. F. 24 (1)/76-Pub.—The following Ordinance made by the President on the 16th May, 1976 is hereby published for general information :—

ORDINANCE No. XIX OF 1976

AN

ORDINANCE

further to amend the Political Parties Act, 1962.

WHEREAS it is expedient further to amend the Political Parties Act, 1962 (III of 1962), for the purpose hereinafter appearing ;

AND WHEREAS the National Assembly is not in session and the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the Political Parties (Second Amendment) Ordinance, 1976.

(2) It shall come into force at once.

2. **Substitution of section 8, Act III of 1962.**—In the Political Parties Act, 1962 (III of 1962), for section 8 the following shall be substituted, namely :—

"8. *Certain disqualifications for being a member of Parliament or a Provincial Assembly.*—A person who has—

(a) at any time on or after the twentieth day of December, 1971, been an office-bearer of a political party dissolved under sub-section

Price : Ps. 9

(2) of section 6 and has not, before a declaration in respect of such party is made under sub-section (1) of that section, resigned from, or publicly announced his dissociation with, such party ; or

(b) been convicted under section 7 ;

shall be disqualified from being a member of Parliament or a Provincial Assembly and from being elected or chosen as such a member for a period of five years from the date of such dissolution or conviction, as the case may be.

Explanation.—In this section, 'office-bearer of a political party' means an office-bearer at the National or Provincial set up of the party otherwise than as a mere member of the Working, Central, Provincial or other Committee of the party.".

3. **Repeal.**—The Political Parties (Amendment) Ordinance, 1976 (V of 1976), is hereby repealed.

FAZAL ELAHI CHAUDHRY,
President.

Countersigned.

ZULFIKAR ALI BHUTTO,
Prime Minister.

ABDUL HAYEE KURESHI,
Secretary.

CORRIGENDUM

[*to the* Gazette of Pakistan, *Extraordinary, Part I, dated the 16th April, 1976, containing Ordinance No. XVII of 1976*].

Page 210 : In line 15, *for* "(shifting of Registered Officer)" *read* "(Shifting of Registered Office)".

[to the Gazette of Pakistan Extraordinary, Part I, dated the 19th April, 1976, containing Ordinance No. XVIII of 1976.]

Page 236 : In line 8, from the bottom, *for* "the attendance of any witness for examination or the production of " *read* "unless it considers that the application is made for the purpose of".

Page 237 : In the first line, *for* "case" *read* "cases".

,, ,, : In line 31, *for* "case," *read* "case".

Page 238 : In line 16, *for* "proceded" *read* "proceeded".

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ISLAMABAD, WEDNESDAY, MAY 19, 1976

PART I

Acts, Ordinances, President's Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS
(Law Division)

Islamabad, the 18th May, 1976

No. F. 24 (1)|76-Pub.—The following Ordinance made by the President on the 16th May, 1976 is hereby published for general information :—

ORDINANCE No. XX OF 1976

AN

ORDINANCE

further to amend the Land Reforms Regulation, 1972

WHEREAS it is expedient further to amend the Land Reforms Regulation, 1972, for the purposes hereinafter appearing ;

AND WHEREAS the Proclamation of Emergency referred to in Article 280 of the Constitution of the Islamic Republic of Pakistan is in force :

AND WHEREAS the National Assembly is not in session and the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the Land Reforms (Amendment) Ordinance, 1976.

(2) It shall come into force at once.

Price : Ps. 19

[1980 Ex. Gaz.]

2. **Amendment of paragraph 2 of the Land Reforms Regulation, 1972.**—In the Land Reforms Regulation, 1972, hereinafter referred to as the said Regulation, in paragraph 2, in clause (7), for the words "exempted by Government" the comma and words ", a livestock farm or a cooperative farming society exempted by the Federal Government" shall be substituted.

3. **Amendment of paragraph 13 of the Land Reforms Regulations, 1972.**—In the said Regulation, in paragraph 13, for sub-paragraph (3) the following shall be substituted, namely :—

"(3) Where any person is in possession of, or is holding, land in excess of the area permissible for retention under Part III, so much of such excess land as is in his possession as a lessee or mortgagee or is held by him as the landlord of an occupancy tenant by a *Muqarraridar* or as an *Ala Malik* shall not vest in Government but shall, subject to the other provisions of this Regulation, revert to the lessor, mortgagor, occupancy tenant, *Muqarraridar* or *Adna Malik*, as the case may be, and shall be deemed to have so reverted at the commencement of this Regulation." ;

4. **Amendment of paragraph 22 of the Land Reforms Regulation, 1972.**—In the said Regulation, in paragraph 22, for sub-paragraph (6) the following shall be substituted, namely :—

"(6) Nothing in this paragraph shall apply to—

(a) holdings which are jointly owned by evacuees and non-evacuees and are required to be partitioned in accordance with the procedure prescribed under any Rehabilitation or Settlement Scheme ;

(b) holdings which are jointly owned by owners of land and occupancy tenants or *Muqarraridars*, required to be partitioned in accordance with the procedure prescribed by or under any law for the time being in force ;

(c) small strips of land *bona fide* required for the purpose of building thereon ;

(d) joint *khatas* when the entire area of a village or *deh* is redistributed amongst various land owners as a result of consolidation of holdings ;

(e) a joint holding required to be partitioned for the purpose of separating the land resumed under this Regulation from the land not so resumed ; or

(f) a co-sharer whose share in a joint holding is equal to the area of a subsistence holding.".

5. **Amendment of paragraph 24 of the Land Reforms Regulation, 1972.**—In the said Regulation in paragraph 24,—

(a) in sub-paragraph (4), for the proviso the following shall be substituted, namely :—

"Provided that he may alienate the entire holding or, in the case of a holding which is less than a subsistence holding, he may alienate any part of his holding by way of gift to any of his presumptive heirs or exchange with, or mortgage or otherwise alienate to, other owners or landless tenants of the same village, *deh* or *mauza*." ;

(b) for sub-paragraph (6) the following shall be substituted, namely :—

"(6) Nothing in this paragraph shall apply to—

(a) land, whether cultivable or other, which is *bona fide* required for the purpose of building thereon, and any tenant in possession of such land who refuses to quit after notice may be evicted under the orders of the Deputy Commissioner ;

(b) mortgages of land, without possession, in favour of Government or an institution owned, managed or controlled by Government ;

(c) cultivating lease of any part of his holding by a land owner for a period not exceeding ten years ;

(d) the holder of a pre-emption decree in respect of an area less than a subsistence holding ;

(e) any land or part of any land situated within the jurisdiction of a Municipality, a Cantonment Board or an Improvement Trust and included in a House Building Scheme prepared or approved by such body ; or

(f) the alienation of land in the districts of Campbellpur, Rawalpindi and Jhelum in favour of a person certified by the Deputy Commissioner concerned to have been displaced from the Hazara District or Mardan District in consequence of the construction of the Tarbela Dam.".

6. **Amendment of paragraph 25 of the Land Reforms Regulation, 1972.**— In the said Regulation, in paragraph 25,—

(a) in sub-paragraph (1),—

(i) for the word "A" the words and comma "Subject to the other provisions of this Regulation, a" shall be substituted, and

(b) after sub-paragraph (4), the following new sub-paragraphs shall be added, namely :—

(5) All suits for enforcing the right of pre-emption in respect of land comprised in a tenancy shall be exclusively entertained, heard and decided by the Collector within whose jurisdiction the land in respect of which the right of pre-emption has been claimed is situated, and all such suits which may be pending in any court immediately before the commencement of the Land Reforms (Amendment) Ordinance, 1976, shall, on such commencement, stand transferred to the Collector concerned.

(6) Any person aggrieved by an order passed by a Collector under the preceding sub-paragraph may, within thirty days of such order, prefer an appeal to Commissioner.

(7) The Board of Revenue may at any time of its own motion or otherwise call for the record of any case or proceedings under this paragraph which is pending or in which a Collector or Commissioner has passed an order, for the purpose of satisfying itself

as to the correctness, legality or propriety of such proceedings or order, and may pass such order in relation thereto as it thinks fit :

Provided that no order shall be passed under this sub-paragraph revising or modifying an order affecting any person unless such person has been afforded an opportunity of being heard :

Provided further that the record of any case or proceedings in which a Collector or Commissioner has passed an order shall not be called for under this sub-paragraph on the application of any aggrieved person made after the expiration of thirty days from the date of such order.

(8) For the purposes of this paragraph a Collector, a Commissioner and the Board of Revenue shall be deemed to be a Civil Court and shall have all powers of a Civil Court under any law for the time being in force and the final order passed in such suits shall be deemed to be a decree of a civil court and shall be executed as such.

(9) In computing the limitation provided for in sub-paragraph (6) or sub-paragraph (7), the provisions of section 5 and section 12 of the Limitation Act, 1908 (IX of 1908), shall apply.

Explanation.—In this paragraph, " Collector ", " Commissioner " and " Board of Revenue " have the meaning assigned to them in the West Pakistan Land Revenue Act, 1967 (W. P. Act XVII of 1967). "

7. **Amendment of paragraph 29 of the Land Reforms Regulation, 1972.**—In the said Regulation, in paragraph 29, in the third proviso, in clause (a), for the figures, letters, words and comma " 31st day of March, 1976 " the figures, letters, words and comma " 30th day of September, 1976 " shall be substituted and shall be deemed to have been so substituted on the first day of April, 1976.

FAZAL ELAHI CHAUDHRY,
President.

Countersigned.
ZULFIKAR ALI BHUTTO,
Prime Minister.

ABDUL HAYEE KURESHI,
Secretary.

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ISLAMABAD, TUESDAY, MAY 25, 1976

PART I

Acts, Ordinances, President's Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS
(Law Division)

Islamabad, the 25th May, 1976

No. F. 24 (1)|76-Pub.—The following Ordinances made by the President on the 25th May, 1976 are hereby published for general information :—

ORDINANCE No. XXI OF 1976

AN

ORDINANCE

further to amend the Pakistan Arms Ordinance, 1965

WHEREAS it is expedient further to amend the Pakistan Arms Ordinance, 1965 (W. P. Ordinance No. XX of 1965), for the purposes hereinafter appearing ;

AND WHEREAS the National Assembly is not in session and the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 89 of the Constitution, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title, extent and commencement.**—(1) This Ordinance may be called the Pakistan Arms (Amendment) Ordinance, 1976.

(2) It extends to the whole of Pakistan.

Price : Ps. 37

[2066 Ex. Gaz.]

(3) It shall come into force at once.

2. **Insertion of new section 14A, W. P. Ordinance No. XX of 1965.**—In the Pakistan Arms Ordinance, 1965 (W. P. Ordinance No. XX of 1965), after section 14, the following new section shall be inserted, namely :—

> " 14A. *Certain offences triable by Magistrates.*—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), an offence punishable under section 13 or section 14 shall, unless it has been committed in respect of any of the arms, ammunition or military stores referred to in the proviso to the said section 13 be triable by a Magistrate of the first class.
>
> (2) All cases relating to offences triable by a Magistrate of the first class under sub-section (1) and pending in a Court of Session immediately before the commencement of the Pakistan Arms (Amendment) Ordinance, 1976, in which the charge had not been framed shall, on such commencement, stand transferred to the Court of the Magistrate of the first class having jurisdiction over such cases. ".

FAZAL ELAHI CHAUDHRY,
President.

Countersigned.
ZULFIKAR ALI BHUTTO,
Prime Minister

ABDUL HAYEE KURESHI,
Secretary.

ORDINANCE No. XXII OF 1976

AN

ORDINANCE

to provide for the formation, working and promotion of co-operative farming.

WHEREAS it is expedient to provide for the formation, working and promotion of co-operative farming and setting up of allied agro-based industries on the basis of self-help and mutual aid amongst the farmers and matters ancillary thereto or connected therewith ;

AND WHEREAS the Provincial Assemblies of the Provinces of Baluchistan, the North-West Frontier, the Punjab and Sind have passed resolutions under clause (1) of Article 144 of the Constitution of the Islamic Republic of Pakistan to the effect that Parliament may, by law, regulate the formation, working and promotion of co-operative farming and setting up of allied agro-based industries on the basis of self-help and mutual aid amongst the farmers ;

AND WHEREAS the National Assembly is not in session and the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President is pleased to make and promulgate the following Ordinance :—

CHAPTER I

PRELIMINARY

1. **Short title, extent and commencement.**—(1) This Ordinance may be called the Co-operative Farming Ordinance, 1976.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. **Ordinance to over-ride other laws.**—The provisions of this Ordinance and the rules shall have effect notwithstanding anything contained in the Co-operative Societies Act, 1925 (Act VII of 1925), or in any other law for the time being in force relating to the rights of landlords and tenants.

3. **Definitions.**—In this Ordinance, unless there is anything repugnant in the subject or context,—

(a) 'agricultural year' has the same meaning as in the West Pakistan Land Revenue Act, 1967 (W. P. Act No. XVII of 1967);

(b) 'bye-laws' means bye-laws registered under this Ordinance;

(c) 'committee' means the managing committee of a society;

(d) 'co-operative farm' means the total land pooled by the members of a society;

(e) 'District Co-operative Council' means a District Co-operative Council formed under section 39;

(f) 'District Co-operative Federation' means a District Co-operative Federation of Co-operative Farming Societies formed under section 35;

(g) 'member' means a member of a society;

(h) 'National Co-operative Council' means the National Co-operative Council constituted under section 43;

(i) 'nation building department' means the departments which the Provincial Government may, by notification in the official Gazette, designate as such for the purposes of this Ordinance;

(j) 'net profits' means net profits as defined in sub-section (3) of section 87C of the Companies Act, 1913 (VII of 1913);

(k) 'office-bearers' means the Chairman, Vice-Chairman, Secretary and Treasurer of a Committee;

(l) 'prescribed' means prescribed by rules;

(m) 'produce index units' means the measures in terms of which the comparative productivity of an area of land of a particular kind in a particular assessment circle or area is computed and expressed for the purposes of the schemes relating to the re-settlement of displaced persons on land and, in respect of any assessment circle or area where no such units have been determined, such measures as may be prescribed;

(n) 'produce income' means the total income derived from all earnings of the co-operative farm before deducting any expenses;

(o) 'Provincial Co-operative Council' means a Provincial Co-operative Council formed under section 41;

(p) 'Provincial Co-operative Federation' means a Provincial Co-operative Federation of Co-operative Farming Societies formed under section 37;

(q) 'Registrar' means a person appointed to perform the duties of Registrar of Co-operative Societies under the Co-operative Societies Act, 1925 (Act VII of 1925), and includes an officer authorised by Government to perform the duties of Registrar under this Ordinance;

(r) 'rules' means rules made under this Ordinance;

(s) 'society' means a co-operative farming society registered under this Ordinance;

(t) 'tenant' means tenant as defined in the Punjab Tenancy Act, 1887 (Punjab Act No. XVI of 1887); and

(u) 'value' in relation to land, means the value as evaluated under section 13.

CHAPTER II

REGISTRATION OF SOCIETIES

4. **Conditions of registration.**—(1) A co-operative farming society which fulfils the following conditions may apply to the Registrar for registration under this Ordinance, namely:—

(a) it consists of not less than twenty members;

(b) the total land pooled by its members is—

  (i) in the case of the Provinces of Baluchistan, the Punjab and Sind, not less than five hundred acres; and

  (ii) in case of the North-West Frontier Province, not less than three hundred acres; and

(c) the land pooled by its members forms one contiguous farm.

(2) An application under sub-section (1) shall be made in such form, and be accompanied by such documents, as may be prescribed.

5. **Procedure of registration.**—If, after making such enquiry as he considers necessary, the Registrar is satisfied that a co-operative farming society applying for registration is eligible for registration under this Ordinance, and that the bye-laws proposed to be framed by it are not inconsistent with any of the provisions of this Ordinance or the rules, he shall register it, and its bye-laws, within fifteen days from the receipt of its application.

6. **Evidence of registration.**—A certificate of registration signed by the Registrar shall be conclusive evidence that the society mentioned therein is duly registered, unless it is proved that the registration of the society has been cancelled.

7. **Amendment of the bye-laws of a society.**—(1) No amendment of the bye-laws of a society shall be effective unless it is registered with the Registrar.

(2) If the Registrar is satisfied that an amendment of the bye-laws made by a society is not inconsistent with any of the provisions of this Ordinance or the rules, he shall register the amendment.

CHAPTER III

MEETINGS

8. **General meeting.**—Every society shall call an annual general meeting of its members and not less than one other general meeting in an agricultural year.

9. **Special general meeting.**—(1) On a requisition signed by not less than one-fifth of the total number of members of a society, the Chairman shall call a special general meeting of the society within thirty days of the receipt of the requisition.

(2) If the Chairman does not call the meeting within the time specified in sub-section (1), the Registrar shall direct the Chairman to call the meeting within a period of seven days and, if the Chairman fails to do so, may himself call the meeting.

CHAPTER IV

MANAGING COMMITTEE AND RIGHTS AND LIABILITIES OF MEMBERS.

10. **Managing committee of a society.**—(1) Each member shall have one vote irrespective of the area of the land pooled by him ; provided that in case of a deceased member all his heirs who want to remain members should be registered and shall have the right to vote.

(2) The members shall, in their annual general meeting, elect, by majority of votes,—

(a) a managing committee consisting of not less than seven and not more than eleven members, including the office-bearers ; and

(b) one representative for the District Co-operative Federation.

(3) A member of a committee, including an office-bearer, and the representative shall, unless he is removed from office earlier, hold office for a term of two years.

(4) No member of a committee or an office-bearer shall hold office for more than two consecutive terms.

(5) Subject to such decisions, if any, as may be taken in a general meeting of a society, the management of the affairs of a society shall vest in the committee.

(6) A member of a committee, including an office-bearer, may be removed from office by a resolution passed by a majority of the total number of members of a society in an annual general meeting or a meeting requisitioned by not less than one-third of the total number of members.

(7) Any member of a committee, including an office-bearer, may by writing under his hand addressed to the Chairman, resign his office.

11. **Pooling of land.**—(1) Every member shall, subject to the provisions of clause (c) of sub-section (1) of section 4, pool his entire holding without affecting his ownership of the holding in any way :

Provided that a member or group of members owning a subsistence holding may retain for his or their personal use an area not exceeding—

(a) in the case of Baluchistan, two acres ; and

(b) in the case of the other Provinces, one acre :

Provided further that a member or group of members pooling more than a subsistence holding may retain for his or their personal use such area not exceeding—

(a) in the case of Baluchistan, four acres ; and

(b) in the case of the other Provinces, two acres ;

as may be determined by the committee :

Provided further that the location of the area to be so retained may be determined by the committee :

Provided further that a member owning less than a subsistence holding shall not be entitled to retain any land for his personal use.

Explanation.—In this section, 'subsistence holding' shall have the same meaning as in the Land Reforms Regulation, 1972.

(2) All land pooled for a co-operative farm by members shall, for the purposes of management, vest in the society.

12. **Liability of members.**—The liability of a member shall be limited to the value of the land pooled by him.

13. **Evaluation of land, etc.**—(1) The land pooled by each member for a co-operative farm shall be evaluated according to its quality and area on the basis of produce index units, provided that a member may apply to the Board of Revenue for a revision in the assessed produce index units for his land at any time.

(2) If any land pooled by a member for a co-operative farm contains orchards, ponds or any other immovable structures, the value of the orchards, ponds and other structures shall be assessed and added to the shares of such member :

Provided that trees other than orchards shall continue to be the property of the member and the value thereof shall not be assessed or added to his share :

Provided further that, if the committee decides to remove such trees or structures standing on any land, such trees or structures shall be removed on payment to the owner of such land of such compensation as may be determined by the committee.

14. **Withdrawal from membership.**—(1) A member who has been a member of a society for not less than three years may, by notice under his hand addressed to the Chairman and delivered to him by the thirty-first day of March in any year, withdraw from membership of the society.

(2) Where, due to the death of a member, the rights and liabilities of the member devolve upon his legal heirs or successors and any of the heirs or successors is a minor the rights and liabilities of the minor shall be the rights and liabilities of his guardian until such time as the minor attains majority.

(3) A minor referred to in sub-section (2) may, after he attains majority, withdraw from the membership of the society in the manner provided for in sub-section (1) if the land owned by him has formed part of the co-operative farm for not less than three years.

(4) On a member withdrawing from the membership of a society,—

(a) he shall cease to be member on and from the first day of July following the day on which he gives notice of his withdrawal;

(b) the land pooled by him shall revert to him on the aforesaid day subject to any encumbrances that may have been created on it by the society, to such extent as may be determined by the society;

(c) he shall not be entitled to any share in the Development Fund or to any right or interest in anything established or purchased out of that Fund; and

(d) he shall pay to the society, towards the cost of tubewells installed, residential houses, sheds or other structures raised, or improvements done, on his land by the society, such amount, and in such manner, as may be determined by the society.

15. **Admission of new members.**—(1) Subject to the other provisions of this Ordinance, a committee may admit to the membership of the society any owner of land who pools his land:

Provided that no owner of land shall be so admitted except after the close of the agricultural year during which the society is registered.

(2) As soon as may be after an owner of land is admitted as a member under sub-section (1), his name shall be notified to the Registrar.

CHAPTER V

PRIVILEGES AND LIABILITIES OF SOCIETIES

16. **Societies to be bodies corporate.**—A society shall be a body corporate by the name under which it is registered, having perpetual succession and a common seal, with power to hold property, both movable and immovable, and shall by the said name sue and be sued.

17. **Office of society.**—Every society shall have its office at such place within the co-operative farm as it may decide.

18. **Copy of Ordinance, etc., to be open to inspection.**—Every society shall keep open to inspection at all reasonable times at the registered address of the society, free of cost,—

(a) a copy of this Ordinance,

(b) a copy of the rules governing such society,

(c) a copy of the bye-laws of such society, and

(d) a register of its member.

19. **Liability in respect of encumbrances on land.**—Where the land pooled by a member is subject to any encumbrances, such encumbrances shall continue to be the liability of such member.

20. **Audit and accounts.**—(1) The accounts of a society shall be maintained in the prescribed manner, shall be audited every year by auditors appointed by the Annual General Meeting out of a list of auditors prepared by the Registrar and shall be laid before the Annual General Meeting for adoption.

(2) An auditor appointed under sub-section (1) shall have power—

(a) to summon at the time of audit any officer, agent, servant and member, past or present, of the society whom he has reason to believe can give material information in regard to any transaction of the society or the management of its affairs ; and

(b) to require the production of a book or document relating to the affairs of, or any cash or security belonging to, the society, by the officer, agent, servant or member believed by the auditor to be in possession of such book, document, cash or security.

(3) An auditor appointed under sub-section (1) shall be paid such fees as may be determined by the Annual General Meeting.

21. **Transfer of interest on death of a member.**—On the death of a member, the rights, interests and liabilities of the member shall devolve on the legal heirs or successors of the member and such legal heirs or successors shall become the members of the society in place of the deceased member.

CHAPTER VI

PROPERTY AND FUNDS OF THE SOCIETY

22. **Assets of the Society.**—(1) A society shall have its own assets consisting of its properties built or acquired out of the Development Fund and such funds and properties as may be prescribed.

(2) A society may purchase any land or other property for the purposes of setting up its office or any agro-based industry or for such other projects of public utility.

(3) Subject to such limits as may be prescribed, a society may, in so far as may be necessary for the purposes of the society, borrow money on the security of its property or of land forming part of the co-operative farm.

(4) Where a society borrows money on the security of its property and also of the land forming part of the co-operative farm, the society shall, as far as practicable, repay the loan obtained by it on the security of such land in priority to the other loans.

23. **Provisions for Reserve Funds, Development Fund and other expenses.**—(1) Every society shall maintain a Reserve Fund and a Development Fund.

(2) The Reserve Fund shall be utilized to meet natural calamities affecting the co-operative farm or other property of the society and for such other purposes, and in such manner, as the committee may determine.

(3) The Development Fund shall be utilized for the development of the co-operative farm and establishment of agro-based industries, hospitals and schools and for such other purposes as may be determined by the society.

(4) Every society may recover from the produce income of the co-operative farm sufficient amount to meet its office expenditure, for the contribution it has to make to the District Co-operative Federation and for the payment of fees to the auditors and of such travelling allowance and daily allowance to its representatives for attending meetings of the District Co-operative Federation as it may from time to time determine.

24. **Distribution of produce income of co-operative farm.**—Out of the produce income of the co-operative farm the direct expenses on account of agricultural inputs, including seeds, fertilizers, pesticides, water charges, land revenue, maintenance of tractors, tubewells, farm animals and agricultural implements, consumption of electricity, depreciation on fixed assets and the expenses referred to in sub-section (4) of section 23, shall first be deducted and the balance shall be distributed as follows, namely :—

(a) not less than five per cent each for the Reserve Fund and Development Fund shall be set apart ; and

(b) of the remaining amount, forty per cent shall be distributed amongst the members in proportion to the value of the land pooled by them and sixty per cent amongst the workers, including working members, and other staff working on the farm according to the quality and quantity of the work done, as determined by the committee.

25. **Distribution of profits.**—The net profits of a society from sources other than the co-operative farm shall be distributed as follows, that is to say,—

(a) one-third shall be set apart for credit to the Development Fund and repayment of loans, in such proportion as may be determined by the society ; and

(b) the remaining two-thirds shall be distributed amongst the members in proportion to the value of the land pooled by them.

26. **Rights of tenants, etc.**—(1) The tenants of the land pooled by a member for a co-operative farm shall stand ejected from such land upon its being so pooled.

(2) The tenants ejected from any land by virtue of sub-section (1) shall be given preference in providing employment on the co-operative farm or in the agro-based industries of the society and, if a member withdraws from the society or the society is wound up, the tenancy rights of such tenants shall stand restored.

CHAPTER VII

LIQUIDATION AND WINDING UP

27. **Winding up.**—(1) If one third of the total number of members of a society apply to the Chairman of the District Co-operative Federation for winding up the society and the Chairman, after such enquiry as he may deem fit, is of the opinion that the society ought to be wound up, he may issue an order directing it to be wound up, and when necessary may appoint a liquidator for the purpose from amongst the members of the District Co-operative Federation and fix his remuneration.

(2) A copy of an order passed under sub-section (1) shall be sent to the Registrar.

28. **Winding up if membership is reduced.**—(1) Where the membership of a society is reduced to less than twenty members or the area of the co-operative farm is reduced to less than the minimum area specified in clause (b) of sub-section (1) of section 4, the Chairman of the District Co-operative Federation may, after allowing the society a period of sixty days to make up the deficiency by order in writing direct that the society be wound up, and when necessary, may appoint a liquidator for the purpose from amongst the members of the District Co-operative Federation and fix his remuneration.

(2) A copy of an order passed under sub-section (1) shall be sent to the Registrar.

29. **Effect of winding up.**—When a society is wound up—

(a) the standing crop of the co-operative farm shall be harvested and distributed in accordance with the provisions of this Ordinance ;

(b) the land comprising the co-operative farm shall revert to the members together with improvements, if any, made by the society and subject to the encumbrances, if any, created thereon by the society and subject to payment by each member of the cost of such improvements on his land as at the time of the winding up ;

(c) after all the liabilities of the society have been met, the assets of the society, including the Reserve Fund, shall, subject to clause (d), be divided amongst the members in proportion to the value of the land pooled by them ; and

(d) the hospitals, schools and other social institutions, if any, established by the society shall stand transferred to, and vest in, the District Co-operative Federation and shall be managed by it in accordance with schemes prepared by it and approved by the Provincial Co-operative Federation.

30. **Power of Chairman of District Co-operative Federation to assess damage.**—Where, in the course of the winding up of a society, it appears that any person who has taken part in the organisation or management of the society or any past or present member or office-bearer of a committee or officer of the society has misapplied or retained or become liable or accountable for any money or property of the society or has been guilty of breach of trust in relation to the society, the Chairman of the District Co-operative Federation may, of his own motion or on the application of a liquidator or any other interested person, hold an inquiry into the conduct of such person, member or officer and make an order requiring him to repay or restore the money or property or any part thereof respectively with interest at such rate as the Chairman thinks just, or to contribute such sum to the assets of the society by way of compensation in regard to the misapplication, retainer or breach of trust as the Chairman thinks just.

31. **Bar of suit.**—Save as is otherwise provided in the Ordinance, no civil court shall have jurisdiction in respect of any matter arising out of any proceedings under this Ordinance or connected with the winding up of a society nor shall any suit or other legal proceedings lie or be proceeded with against the society, except by the leave of the Chairman of the Provincial Co-operative Council and subject to such terms as he may impose.

32. **Arbitration.**—(1) If any dispute with regard to the business of a society other than a dispute regarding disciplinary action taken by the society or its committee against a paid servant of the society, arises—

(a) between the members or past members of a society, or persons claiming through a member or past member ; or

(b) between the members or past members or persons so claiming and any past or present office-bearer ; or

(c) between the society or its committee and any past or present member of the society ; or

(d) between the society or its committee and any past or present office-bearer of the society ;

it shall be reported to the Chairman of the District Co-operative Federation, who shall refer it for decision to not more than three arbitrators appointed by him from amongst the members of the District Co-operative Federation.

(2) Any party aggrieved by the award of the arbitrators under sub-section (1) may, within one month of the date of the communication of the order, prefer an appeal to the District Judge.

(3) The award of arbitrators, or an award passed in appeal by the District Judge under sub-section (2), shall, subject to the provisions of section 54, be final and shall not be liable to be called in question in any court.

33. **Attachment before award.**—Where a dispute has been referred to arbitration under section 32 and the arbitrators are satisfied on inquiry or otherwise that a party to such arbitration is, with intent to delay or obstruct the execution of any award that may be made, about to dispose off the whole or any part of his property, the arbitrators may direct the conditional attachment of the said property and such attachment shall have the same effect as if made by a competent civil court.

34. **Recoveries of dues.**—Every award made under section 32 every order passed in appeal under that section, and every order passed under section 54 shall be deemed to be a decree of a civil court and shall be executed in the same manner as a decree of such court.

CHAPTER VIII

FEDERATION OF THE SOCIETIES

35. **District Co-operative Federation.**—(1) In each district in which not less than two societies are in existence, there shall be formed a District Co-operative Federation of Co-operative Farming Societies which shall consist of one representative from each society in the district.

(2) Each District Co-operative Federation shall elect at its general meeting its office-bearers, including the Chairman, two representatives for the District Co-operative Council and one representative for the Provincial Co-operative Federation, provided that till such time as the requisite number of representatives mentioned in sub-section (1) are available, two or more representatives shall carry out the responsibilities of all the required office-bearers.

(3) The office-bearers, including the Chairman, and representatives shall hold office for a term of two years.

(4) A representative for a District Co-operative Council or a Provincial Co-operative Federation may, by writing under his hand addressed to the Chairman of the District Co-operative Council or, as the case may be, the Provincial Co-operative Federation, resign his office.

(5) The District Co-operative Federation may make bye-laws relating to its meeting and procedure and the performance of its functions.

36. **Fund and functions of District Co-operative Federation.**—(1) A District Co-operative Federation shall have a fund to which shall be credited the contributions received by it from the societies and out of which shall be defrayed the

contributions it shall make to the Provincial Co-operative Federation and the office and other expenses of the District Co-operative Federation.

(2) A District Co-operative Federation shall deal with matters of mutual interest to the societies in the district and make recommendations to the District Co-operative Council on matters with which the Provincial Government is concerned.

37. **Provincial Co-operative Federation.**—(1) There shall be formed in each Province a Provincial Federation of Co-operative Farming Societies which shall consist of one representative from each of the District Co-operative Federations within the Province.

(2) Each Provincial Co-operative Federation shall elect in its general meeting its office-bearers, including the Chairman, five representatives for the Provincial Co-operative Council and one representative for the National Co-operative Council.

(3) A representative shall hold office for a term of one year.

(4) A representative for a Provincial Co-operative Council or the National Co-operative Council, may, by writing under his hand addressed to the Chairman of the Provincial Co-operative Council or, as the case may be, the National Co-operative Council, resign his office.

(5) The Provincial Co-operative Federation may make bye-laws relating to its meeting and procedure and the performance of its functions.

38. **Fund and functions of the Provincial Co-operative Federation.**—(1) A Provincial Co-operative Federation shall have a fund to which shall be credited the contributions received by it from the District Co-operative Federations and out of which shall be defrayed its office and other expenses.

(2) The functions of the Provincial Co-operative Federation shall be to deal with matters of mutual interest to the societies in the Province and make recommendations to the Co-operative Council on matters with which the Provincial Government is concerned.

39. **District Co-operative Council.**—(1) There shall be formed in each district a District Co-operative Council which shall consist of the heads of the nation-building departments in the district and two representatives of the District Co-operative Federation. Provided that, pending the availability of the representatives of the District Co-operative Federation, the District Co-operative Council may consist of only the heads of the said departments.

(2) The elected Chairman of the District Council established under the Provincial Law relating to local government shall be the *ex-officio* Chairman of the District Co-operative Council.

(3) Pending the election of the Chairman of the District Co-operative Council referred to in sub-section (2) the Chairman shall be appointed by the Provincial Government from amongst the members of the council.

(4) The District Co-operative Council may make bye-laws relating to its meetings and procedure and the performance of its functions.

40. **Functions of the District Co-operative Council.**—(1) A District Co-operative Council shall, of its own motion or on the recommendation of the District Co-operative Federation, coordinate the services of the different nation-building departments and the District Co-operative Federation and extend all possible assistance to the societies within the district.

(2) A District Co-operative Council shall review the decisions taken by it from time to time, the progress of co-operative farming movement within the district and suggest measures for its improvement and future development.

(3) The Provincial Government shall make available to a District Co-operative Council such funds as the Provincial Government may consider adequate for enabling the Council to perform its functions.

41. **Provincial Co-operative Council.**—(1) There shall be formed in each Province a Provincial Co-operative Council which shall consist of all the Secretaries to the Provincial Government in the nation-building departments and five representatives of the Provincial Co-operative Federation.

(2) The Provincial Minister dealing with the matters relating to co-operation shall be the *ex-officio* Chairman of the Provincial Co-operative Council and the Secretary of the department dealing with such matters shall be the *ex-officio* Secretary of the Council.

(3) The Provincial Co-operative Council may make bye-laws relating to its meetings and procedure and the performance of its functions.

42. **Functions of the Provincial Co-operative Council.**—(1) The Provincial Co-operative Council shall co-ordinate the activities of all the District Co-operative Councils within the Province, ensure uniformity of policy throughout the Province and perform at the Provincial level the functions assigned by section 40 to the District Co-operative Council at the district level.

(2) The Provincial Government will make available to the Provincial Co-operative Council such funds as the Provincial Government may consider adequate for enabling the Council to perform its functions.

43. **National Co-operative Council.**—(1) As soon as may be after the commencement of this Ordinance the Federal Government shall constitute the National Cooperative Council which shall consist of the following members, namely :—

(a) the Federal Minister-in-charge of the Ministry dealing with matters relating to co-operatives, who shall be the Chairman of the Council ;

(b) the Provincial Ministers dealing with matters relating to Co-operation in each Province ;

(c) one representative of each of the Provincial Co-operative Federation ; and

(d) such other members as the Federal Government may appoint :

Provided that, for the first constitution of the National Co-operative Council, the members referred to in clause (c) shall be nominated by the Chairman of the Council.

(2) The National Council may make bye-laws relating to its meetings and procedure and the performance of its functions.

44. **Functions of the National Co-operative Council.**—(1) The National Co-operative Council shall co-ordinate the activities of the Provincial Co-operative Councils and ensure uniformity of policy in all the Provinces by laying down policy guidelines for the working of the Provincial Co-operative Councils and the District Co-operative Councils.

(2) The National Co-operative Council shall review its decisions taken from time to time and the progress of the co-operative movement in all the Provinces and suggest measures for its over-all future development.

(3) The National Co-operative Council shall also maintain liaison between the Federal and Provincial nation-building departments and arrange for the holding of national and international seminars on various aspects of co-operative farming.

(4) The Federal Government shall make available to the National Co-operative Council such funds as the Federal Government may consider adequate for enabling the Council to perform its functions.

CHAPTER IX

INSPECTION OF AFFAIRS

45. **Inquiry by Chairman District Co-operative Federation.**—(1) The Chairman of the District Co-operative Federation may, of his own motion, by himself or by a person duly authorised by him in writing in this behalf hold an inquiry into the constitution, working and financial condition of a society.

(2) The Chairman of the District Co-operative Federation shall hold such an inquiry as is contemplated in sub-section (1) of this section.

(a) on the application of a majority of the committee of the society, or

(b) on the application of one-third of the members of the society.

(3) All officers and members of the society whose affairs are investigated shall furnish such information in their possession in regard to the affairs of the society as the person holding the inquiry may require.

(4) The result of any inquiry under this section shall be communicated to the society whose affairs have been investigated.

46. **Inspection of books of indebted society.**—(1) The Chairman of the District Co-operative Federation may, on the application of a creditor of a society, inspect or direct some person authorized by him by order in writing in this behalf to inspect the books of the society ;

Provided that the applicant—

(a) satisfies the Chairman that the debt is a sum then due, and that he has demanded payment thereof and has not received satisfaction within a reasonable time ; and

(b) deposits with the Chairman such sum as security for the costs of the proposed inspection as the Chairman may require.

(2) The Chairman shall communicate the result of any such inspection to the creditor.

47. **Power of Chairman, District Co-operative Federation to exercise powers under section 30 in the course of an inquiry or inspection.**—Where, in the course of any inquiry under section 45 or an inspection under section 46, it appears to the Chairman of the District Co-operative Federation that there exists any such ground as is specified in section 30, he may of his own motion or on the application of the person authorized by him under section 45 or section 46, exercise the powers specified in section 30.

48. **Costs of inquiry.**—Where an inquiry is held under section 45 or an inspection is made under section 46, the Chairman of the District Co-operative Federation may apportion the costs, or such part of the costs, as he may consider proper between the society, the members or creditor demanding the inquiry or inspection, the officers or former officers, and the members or past members of the society :

Provided that—

(a) no order of apportionment of the costs shall be made under this section unless the society or person liable to pay the costs thereunder has or have been heard or has or have had a reasonable opportunity of being heard; and

(b) the Chairman shall record the grounds on which the costs were apportioned.

49. **Recovery of costs.**—Any sum awarded by way of costs under section 48 may be recovered, on application by the Chairman of the District Co-operative Federation to a Magistrate having jurisdiction in the place where the person from whom the money is claimable actually and voluntarily resides, or carries on business, by the distress and sale of any movable property within the limits of the jurisdiction of such Magistrate belonging to such person, and such Magistrate shall proceed to recover the same in the same manner as if it were a fine imposed by himself.

CHAPTER X

MISCELLANEOUS

50. **Amalgamation or transfer of societies.**—(1) Any two or more societies may, with the approval of the District Co-operative Federation, by resolution passed by a three-fourths majority of the members present at a special general meeting of each such society held for the purpose, amalgamate as a single society;

Provided that each member has had fifteen clear days' notice of the resolution and the date of the meeting.

(2) An amalgamation referred to in sub-section (1) may be effected without a dissolution, or a division of the funds, of the amalgamating societies and the resolution of the societies concerned shall on such amalgamation, be a sufficient conveyance to vest the assets and liabilities of the amalgamating societies in the amalgamated society.

(3) Any society may, by a resolution passed in accordance with the procedure laid down in sub-section (1) transfer its assets and liabilities to any other society which is prepared to accept them:

Provided that, when any such amalgamation or transfer of assets and liabilities involves the transfer of its liabilities by any society to any other society, it shall not be made without giving three months' notice to the creditors of both or such societies:

Provided further that if a creditor of any of the societies concerned objects to such amalgamation or transfer of assets and liabilities and gives written notice to that effect to the society or societies concerned one month before the date fixed for the amalgamation or transfer, the amalgamation or transfer shall not be made until the dues of such creditor have been satisfied.

51. **Powers to exempt from stamp duty or registration fee, etc.**—The Provincial Government may, by notification in the official Gazette, reduce or remit :—

(a) the stamp-duty with which, under any law for the time being in force, any instruments executed by or on behalf of a society or by an officer or member and relating to the business of the society, or security bonds executed by or on behalf of officers or servants of a society, or awards of the arbitrators under this Ordinance, are chargeable; and

(b) any fee payable under the law relating to the registration of documents or to court-fees for the time being in force.

52. **Exemption from Income-tax.**—The earnings of a society and the dividend paid by it to its members shall be exempt from income-tax.

53. **Notice necessary in suits.**—No suit shall be instituted against a society or any of the office-bearers in respect of any act relating to the business of the society until the expiration of three months next, after notice in writing has been given to the Chairman of the District Co-operative Federation.

54. **Power of revision.**—The Chairman of the Provincial Co-operative Council may, of his own motion or otherwise call for the record of any case or proceedings under this Ordinance for the purpose of satisfying himself as to the correctness, legality or propriety of any decision or order passed by any authority, and may pass such order in relation thereto as he may think fit :

Provided that no order shall be passed under this section revising or modifying an order affecting any person unless such person has been afforded an opportunity of being heard.

55. **Transitional provisions.**—(1) Till such time as the District Co-operative Federation is formed in a District and its Chairman has been elected,—

(a) the powers and functions of the District Co-operative Federation under this Ordinance and the rules shall be exercised and performed by the District Co-operative Council ; and

(b) the powers and functions of the Chairman under this Ordinance and the rules shall be exercised and performed by the Chairman of the District Co-operative Council.

(2) Till such time as the Provincial Co-operative Federation is formed in a Province, its powers and functions under this Ordinance and the rules shall be exercised and performed by the Provincial Co-operative Council.

56. **Power to make rules.**—The Provincial Government may make rules for carrying out the purposes of this Ordinance.

FAZAL ELAHI CHAUDHRY,
President.

Countersigned.
ZULFIKAR ALI BHUTTO,
Prime Minister.

ABDUL HAYEE KURESHI,
Secretary.

CORRIGENDA

[*to the Partnership Act*, 1932 (*IX of* 1932)]

Page 6 : In the marginal note to section 13, *for* " lights and riabllties" *read* " rights and liabilities ".

: In the last line, *for* " purposes, " *read* " purposes ".

Page 9 : In the last line, *for* " ount " *read* " amount ".

Page 17 : In line 5, *for* " par " *read* " part ".

Page 18 : In line 9, *for* " writing. " *read* " writing.] ".

In the marginal note to section 63, *for* " afirm " *read* " a firm ".

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PART I

Acts, Ordinances, President's Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 9th July, 1976

No. F. 24 (1)/76-Pub.—The following Ordinance made by the President on the 9th July, 1976 is hereby published for general information :—

ORDINANCE No. XXIII OF 1976

AN

ORDINANCE

further to amend the Defence of Pakistan Ordinance, 1971

WHEREAS it is expedient further to amend the Defence of Pakistan Ordinance, 1971 (XXX of 1971), for the purposes hereinafter appearing ;

AND WHEREAS the Proclamation of Emergency referred to in Article 280 of the Constitution of the Islamic Republic of Pakistan is in force ;

AND WHEREAS the National Assembly is not in session and the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title, extent and commencement.**—(1) This Ordinance may be called the Defence of Pakistan (Second Amendment) Ordinance, 1976.

Price Ps. 9

[2554 Ex Gaz.]

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. **Substitution of section 13, Ordinance XXX of 1971.**—In the Defence of Pakistan Ordinance, 1971 (XXX of 1971), for section 13 the following shall be substituted, namely :—

"13. *Appeals, etc.*—(1) A person sentenced by a Special Tribunal after the fourteenth day of August, 1974, shall have a right of appeal to the High Court within a period of thirty days from the commencement of the Defence of Pakistan (Second Amendment) Ordinance, 1976, or the day on which the sentence is passed, whichever is the later.

Explanation.—In this section, " High Court " means the High Court within whose jurisdiction the sentence has been or is passed.

(2) Chapter XXIX of the Code shall apply to the suspension, remission and commutation of sentences passed by a Special Tribunal, so, however, that the powers exercisable by the Provincial Government under that Chapter shall be exercised by the Federal Government.

13A. *Bar of jurisdiction.*—Save as provided in section 13 and notwithstanding the provisions of the Code, or of any other law for the time being in force, or of anything having the force of law by whatever authority made or done, there shall be no appeal from any order or sentence of a Special Tribunal, and no court shall have authority to revise such order or sentence, or to transfer any case from a Special Tribunal, or to order the suspension of execution of sentence or release on bail with or without sureties under section 426, 435, 491, 497, 498 or 561-A of the Code or any other provision of law, of any person being tried, or convicted, by a Special Tribunal, or have any jurisdiction of any kind in respect of any proceedings of a Special Tribunal. ".

FAZAL ELAHI CHAUDHRY,
President.

Countersigned.
ZULFIKAR ALI BHUTTO,
Prime Minister.

ABDUL HAYEE KURESHI,
Secretary.

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PART I

Acts, Ordinances, President's Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 17th July, 1976

No. 24(1)|76-Pub.—The following Ordinance made by the President on the 17th July, 1976 is hereby published for general information :—

ORDINANCE XXIV OF 1976

THE FLOUR MILLING CONTROL AND DEVELOPMENT

ORDINANCE XXIV OF 1976

An Ordinance to regulate the operation and development of flour milling

WHEREAS it is expedient to make provision to regulate the operation and development of flour milling and to provide for matters connected therewith or incidental thereto ;

AND WHEREAS paragraph (b) of clause (1) of Article 253 of the Constitution provides that Parliament may by law declare that any trade, business, industry or service specified in such law shall be carried on or owned, to the exclusion, complete or partial, of other persons, by the Federal Government or a Provincial Government or by a corporation controlled by any such Government ;

AND WHEREAS the National Assembly is not in session, and the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title, extent and commencement.**—(1) This Ordinance may be called the Flour Milling Control and Development Ordinance, 1976.

Price : Ps. 87

[2626 Ex. Gaz.]

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. **Definitions.**—In this Ordinance, unless there is anything repugnant in the subject or context,—

(a) "acquired establishment" means an establishment in respect of which an order has been made under section 5;

(b) "bank rate" means the bank rate determined and made public under the provisions of the State Bank of Pakistan Act, 1956 (XXXIII of 1956);

(c) "Corporation" means a body corporate wholly owned and controlled by the Federal Government or by the Government of a Province, including any body or authority controlled by the Federal Government or the Government of a Province, to which an acquired establishment is transferred under section 6;

(d) "creditor" means any person to whom an acquired establishment owes any amount of money;

(e) "debtor" means a person who owes any amount of money to an acquired establishment;

(f) "establishment" means any company, firm, concern, institution or enterprise the whole or any part of the undertaking of which pertains to the industry, and includes the business related to the industry, and any office, shop, building, factory, godown, yard, stocks, stores, vehicles and assets in any form, so related, wherever they may be;

Explanation.—The Federal Government shall decide whether the business is related or not to the industry and the decision of the Federal Government shall be final.

(g) "foreign investor" means a person, other than a citizen of Pakistan, who has made investment in Pakistan and to whom—

(i) the Federal Government has given an assurance that he will have the right to repatriate from Pakistan the amount of his investment or the income arising therefrom or both such amount and such income; or

(ii) the Federal Government has not given such assurance but whom it has assured that, in the event of compulsory acquisition of the shares held in an establishment by the shareholders, he will not be treated less favourably than an investor to whom such assurance had been given;

(h) "industry" means the flour milling industry composed of one or more flour mills equipped with rollers;

(i) "Manager" means the Manager appointed under section 7;

(j) "person" includes an individual, a Hindu undivided family, a partnership firm and an association of persons or a body of individuals, Government of a Province and a local authority;

(k) "previous management" in relation to an establishment means the person, board of directors or other body or authority in whom or in which the management of the establishment vested immediately before an order has been made under section 5 in respect thereof ;

(l) "roller" means a roller body having a set of rollers of any size ;

(m) "shareholder" means a shareholder in the share capital of an establishment and includes a stockholder ; and

(n) words and expressions used but not defined in this Ordinance shall have the same meaning as in the Companies Act, 1913 (VII of 1913).

3. **Declaration.**—It is hereby declared that the industry in the Province of Baluchistan, and the industry having not less than six rollers per establishment in other parts of Pakistan, shall be owned and carried on by the Federal Government or a Provincial Government or by a Corporation controlled by a Provincial Government to the exclusion of all other persons, except a foreign investor.

4. **Ordinance to override other laws.**—The provisions of this Ordinance shall have effect notwithstanding anything contained in the Companies Act, 1913 (VII of 1913), or the Companies (Managing Agency and Election of Directors) Order, 1972 (P.O. No. 2 of 1972), or any other law for the time being in force, or any agreement, contract, memorandum or article of association of a company.

5. **Power to acquire ownership and management.**—(1) The Federal Government may, by an order published in the official Gazette, acquire the ownership and management of any establishment.

(2) On the making of such order,—

(a) the previous management shall stand divested of such management ;

(b) in the case of an establishment which is a company or an establishment owned by a company, the shares of company or the proprietary interest of the company in the establishment shall, in the discretion of the Federal Government, vest in that Government ; and

(c) in the case of an establishment owned by a person, the proprietary interest of such person shall vest in the Federal Government :

Provided that nothing in this sub-section shall apply to the shares, or proprietary interest, held by a foreign investor.

6. **Management of establishment.**—(1) The Federal Government may in respect of acquired establishments, by notification in the official Gazette, transfer the ownership and management of one or more such establishments to a Provincial Government on such terms and conditions as may be determined by the Federal Government.

(2) A Provincial Government to which the ownership and management is transferred under sub-section (1) shall be empowered to set up, by notification in the official Gazette, a Corporation and to transfer the ownership and management of the affairs of such establishments to such Corporation or direct that such establishments shall be owned and managed by an existing Corporation under its control :

Provided that, if the Federal Government rescinds a notification made under sub-section (1), the ownership and management of the acquired establishment concerned shall revest in the Federal Government on the date on which the notification is rescinded.

(3) A Corporation set up under sub-section (2) shall be a body corporate having perpetual succession and a common seal, with power to hold and dispose of property, and shall by the name assigned to it by the notification issued under that sub-section sue and be sued.

(4) The Provincial Government may, with the approval of the Federal Government, make such provisions for the management of the affairs of a Corporation set up under sub-section (2), including provisions relating to finances, audit of accounts and administrative arrangements, as it may deem fit.

7. **Appointment of Managers.**—(1) Where the Federal Government has made an order under section 5 in respect of an establishment, it may appoint a Manager in respect of such establishment :

Provided that where the ownership and management of an establishment has been transferred to a Corporation under section 6, the Manager shall be appointed by such Corporation.

(2) Upon the appointment of Manager in respect of an acquired establishment, the administration and management of the affairs of such establishment shall vest in the Manager, subject to such directions as the appointing authority may give from time to time in this behalf.

(3) The Manager shall hold office during the pleasure of the appointing authority on such terms and conditions as may be specified by such authority.

8. **Regulations.**—The Corporation to which the ownership and management of an establishment has been transferred under section 6 may, with the prior approval in writing of the Provincial Government, make such regulations as appear to it to be necessary for carrying out the purposes of this Ordinance.

9. **Delegation of powers, etc.**—(1) The Federal Government may, by notification in the official Gazette, direct that all or any of its powers under this Ordinance, shall, in such circumstances and subject to such conditions as may be specified in the notification, be exerciseable also by a Provincial Government or a Corporation or any other person.

(2) The Federal Government may from time to time issue such directions to, and call for such information or reports from the Corporation through Provincial Government as the Federal Government may deem expedient.

10. **Compensation.**—Where the Federal Government acquires the shares or proprietary interests of an establishment under section 5 these shall be paid compensation the amount of which shall be determined and paid by the Federal Government on the basis of the principles set out in the Schedule.

11. **Reorganisation.**—Where the shares of a company are owned wholly by the Corporation, the assets and liabilities of such company may, with the prior approval in writing of the Federal Government, be acquired by the Corporation, whereafter the company shall stand wound up.

12. **Prohibition to obstruct.**—No person shall, unless so authorised by the Federal Government or the Provincial Government or the Corporation, give any instruction to the Manager, nor shall any person in any manner obstruct him in the discharge of his duties or the performance of his functions.

13. **Debtor.**—(1) The Corporation may, by notice in writing, call upon a debtor to pay to the Corporation or to the acquired establishment specified

in such notice, the amount of money due from him to the establishment, within a period of thirty days commencing from the date of receipt or such notice by the debtor.

(2) Where the debtor fails to pay the amount due from him within the period specified in the notice under sub-section (1), the Corporation shall have the same power of effecting recovery as the Industrial Development Bank of Pakistan has under sections 39, 40 and 41 of the Industrial Development Bank of Pakistan Ordinance, 1961 (XXI of 1961).

14. **Creditor.**—(1) A creditor of an acquired establishment may apply to the Corporation for payment of the amount due to him from such establishment.

(2) The Corporation may, on receipt of an application under sub-section (1), and after such enquiry as it may deem fit, either reject such application or, if satisfied, direct the acquired establishment to pay the amount due to the creditor in such instalments and within such period as may be specified in the direction.

15. **Power to revoke contract etc.**—If any contract or agreement entered into, or any obligation undertaken, by any previous management of an acquired establishment is declared by the Federal Government or a Provincial Government, in case such establishment has been transferred to it under section 6, to be repugnant to the interest of the establishment, such contract, agreement or obligation shall stand revoked and the establishment shall not be liable for any loss or damage suffered by the previous management by reason of such revocation :

Provided that a declaration under this section shall be made after such enquiry as the Government concerned may deem fit and after giving an opportunity to the person or persons with whom such contract or agreement was entered into, or to whom such obligation was undertaken, to show cause why such declaration shall not be made :

Provided further that this section shall not be construed as preventing any party to the contract, agreement or obligation so revoked from initiating action in a court of law against the previous management.

16. **Continuance in service of the employees.**—(1) Where the ownership and management of an acquired establishment is transferred to a Corporation under section 6, every wholetime employee of such establishment shall, on and from the date of such transfer, become an employee of the Corporation, and shall continue to hold his office on the same terms and conditions as were applicable to him immediately before such transfer, until his employment in the Corporation is terminated or his terms and conditions of service are altered by the Corporation :

Provided that if a question arises whether a person was a wholetime employee of an establishment or not, the decision of the Corporation shall be final.

(2) Where any employee of the acquired establishment has under the provisions of sub-section (1) become the employee of a Corporation, the Corporation may alter the terms and conditions of service of such employee as it thinks fit, and, if the alteration is not acceptable to the employee, the

Corporation may terminate his employment by giving him compensation equivalent to his remuneration for three months, or if his contract of service provides for a shorter notice for termination of employment, for the period so provided.

Explanation.—The compensation payable to an employee under sub-section (2) shall be in addition to, and not in derogation of, any of his rights as to pension, gratuity, provident fund money or other benefit to which he may be entitled under his contract of service.

(3) The Corporation may at its discretion transfer an employee from an acquired establishment to any other such establishment under its control or to its head office or regional offices.

(4) The transfer of the services of an employee of an establishment to a Corporation shall not, except as provided in this section, entitle any such employee to any compensation, and no such claim shall be entertained by any court, tribunal or other authority.

17. **General effect of vesting of establishment.**—(1) Where the management of an acquired establishment has been transferred to a Corporation under section 6, all contracts, agreements and other instruments of whatever nature subsisting or having effect immediately before the date of the transfer, to which such establishment was a party or which were in respect of such establishment, shall, subject to the provisions of section 15, be of as full force and effect against or in favour of the Corporation, and may be enforced or acted upon as fully and effectively as if, instead of the establishment, the Corporation had been a party thereto, or as if they had entered into or issued in respect of the Corporation.

(2) If on the date of the transfer of an acquired establishment to a Corporation any suit, appeal or legal proceeding of whatever nature is pending by or against such establishment, it shall not abate, discontinue or be in any way prejudicially affected by reason of such transfer or anything done under this Ordinance, but the suit, appeal or other proceeding may be continued, prosecuted and enforced by or against the Corporation.

18. **Duty to deliver possession of property.**—(1) Where the ownership and management of an acquired establishment has been transferred to a Corporation under section 6, every person who has in his possession, custody or control any property of such establishment, shall forthwith deliver the property to the Corporation.

(2) Without prejudice to the provisions of sub-section (1), it shall be lawful for the Corporation to take all necessary steps for acquiring possession of all properties which have been transferred to and vested in it under this Ordinance.

Explanation.—In this section, "property" means property of any kind, including books, documents and papers and also includes any right or interest in such property.

19. **Provident, superannuation and other like funds.**—(1) Where an establishment which has been transferred to a Corporation under section 6 has established a provident or superannuation fund or any other like fund for the benefit of its employees, and has constituted a trust in respect thereof, hereinafter referred to as an existing trust, the moneys standing to the credit of

any such fund on the day of such transfer, together with any other assets pertaining to such fund, shall, subject to the provisions of sub-section (2), vest in the Corporation on that day.

(2) Where the employees of any such establishment do not become the employees of a Corporation under section 16, the moneys and other assets belonging to any such fund as is referred to in sub-section (1) shall be apportioned between the persons responsible for the fund and the Corporation, in such manner as may be prescribed by rules, and in the case of any dispute regarding such apportionment, the decision of the Federal Government shall be final.

(3) The Corporation shall, as soon as may be after an establishment is transferred to it under section 6, constitute in respect of the moneys and other assets which are vested in it under this section, one or more trusts having objects as similar to the objects of the existing trusts as in the circumstances may be practicable.

(4) Where all the moneys and other assets belonging to an existing trust are vested in the Corporation under this section, the person responsible for such trust shall, as from the date of such transfer, be discharged from the trust, except in respect of things done or omitted to be done before the transfer of the establishment.

20. **Bar to jurisdiction.**—(1) No court shall call in question or permit to be called in question any provision of this Ordinance, or of any rule or order made, or anything done or any action taken thereunder.

(2) No court shall grant any injunction or make any order, nor shall any court entertain any proceedings, in relation to anything done or intended to be done under this Ordinance.

21. **Indemnity.**—No suit, prosecution or other legal proceedings shall lie against the Federal Government, a Provincial Government, Corporation, Manager or any other person for anything in good faith done or intended to be done under this Ordinance or any rule or order made thereunder.

22. **Penalties.**—Whoever—

(1) obstructs or resists or hinders any person in the discharge of his duties under this Ordinance; or

(2) destroys, tampers with, alters or defaces any property or document belonging, or pertaining, to an acquired establishment; or

(3) refuses or fails to deliver possession of any property or document belonging or pertaining, to an acquired establishment; or

(4) contravenes any of the provisions of section 12 or section 18;

shall be punishable with rigorous imprisonment for a term which may extend to three years, or with fine or with both:

Provided that no court shall take cognisance of an offence under this Ordinance unless a complaint in this behalf is made by the Corporation.

23. **Change of name of an acquired establishment.**—The Federal Government may, by notification in the official Gazette, specify a new name by which an acquired establishment shall be known from such date as may be specified in the notification.

24. **Composite enterprises and organisations.**—Where an acquired establishment is engaged in a business not directly related to the industry, the Federal Government may take such action for the bifurcation of such business from business directly related to the industry as it may deem fit ; and the decision of the Federal Government as to such bifurcation shall be final.

25. **Assistance to a Corporation.**—The Federal Government, or a Provincial Government, shall provide such assistance as may be needed by the Corporation for carrying out the purposes of this Ordinance.

26. **Power to make rules.**—(1) The Federal Government may make rules for carrying out the purposes of this Ordinance.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for, or empower a Provincial Government or a Corporation to make orders providing for all or any of the following matters, namely :—

(a) ensuring the safety of the properties relating to an acquired establishment ;

(b) ensuring the due performance of duties by the persons connected with the acquired establishment ;

(c) prohibiting anything likely to interfere with the proper functioning of an acquired establishment ;

(d) the administration, management and disposal, by way of transfer or otherwise, of any property relating to or held or managed by or on behalf of an acquired establishment ;

(e) prohibiting the departure from any area of any person connected with the administration, control or functioning of an acquired establishment, save with the leave of the Manager, or any other person authorised in this behalf by the Federal Government or a Provincial Government or a Corporation.

(f) the taking over or control of any business, trade, industry, firm or company which in the opinion of the Federal Government is a subsidiary of an acquired establishment ;

(g) the requisitioning of any property, movable or immovable, belonging to an acquired establishment ;

(h) the requisitioning of any property, movable or immovable, the requisition of which is, in the opinion of the Federal Government, required for the proper functioning of an acquired establishment ;

(i) preventing the entry of any person into any place, yard, factory, mill, shop, or office used for the purpose of an acquired establishment, or any of its subsidiaries ;

(j) the taking of any steps for collecting, controlling and disposing of the assets, movable or immovable, of any acquired establishment ;

(k) determining the terms and conditions for the transfer of acquired establishments under sub-section (1) of section 6 and for their re-vesting in the Federal Government under sub-section (2) of that section ;

(l) preparation and audit of accounts of the Corporation and of the acquired establishments and matters ancillary thereto ; and

(m) control of the Federal Government over the accounts of the Corporation and of the acquired establishments.

27. **Removal of difficulties.**—If any difficulty arises in giving effect to any provision of this Ordinance, the Federal Government may make such order, not inconsistent with the provisions of this Ordinance, as may appear to it to be necessary for the purpose of removing the difficulty :

Provided that no such power shall be exercised after the expiry of one year from the commencement of this Ordinance.

THE SCHEDULE

(*See* section 10)

Principles and the manner for payment of compensation in respect of the shares or proprietary interests of an establishment acquired by the Federal Government.

1. The value of the compesation for the shares of establishment acquired by the Federal Government shall be assessed—

(a) in the case of the shares not quoted on any of the stock exchanges, at the Break-up Value, and

(b) in the case of the shares quoted on any of the stock exchanges, at the Break-up Value or the Market Value, whichever is more, provided that the Market Value will be taken into account only if the shares have been traded on the stock exchange for at least three years, and not less than 30% of the shares have been traded during the three years preceding the date of the acquisition of the shares.

2. Where the proprietary interests in such an establishment are acquired by the Federal Government, the value of the compensation for the interests so acquired shall be assessed at the Net Worth of the proprietary interests of such establishments.

3. The compensation payable in accordance with the principles indicated above shall be paid by the Federal Government in cash or in the form of Government Bonds redeemable at any time at the option of the Federal Government within a period of fifteen years, and carrying, with effect from the date of acquisition, a rate of interest one per cent above the bank rate as notified by the State Bank of Pakistan from time to time. In the case of persons holding shares of a total value less than Rs. 5,000, the Bonds will be redeemable within a period of two years. The Bonds shall be negotiable and shall be eligible as security for advances.

4. **Definition.**—In this Schedule,—

(a) "Break-up Value" shall mean the value of the shares of a company as determined by the Auditors appointed by the Federal Government on the basis of the Balance Sheet of the company, drawn up as on the date of acquisition, to be prepared and verified by such auditors in accordance with clause (c) of sub-rule (2) of rule 8 of the Wealth-tax Rules;

(b) "Market Value" shall mean the average value of the shares of a company as quoted on the stock exchange nearest to the Head Office of the company on closing on all working days within three years of the date of order of acquisition of such shares under this Ordinance;

(c) "Net Worth Value" shall mean the value of the proprietary interests of a company or other person in an establishment which are acquired under this Ordinance, as determined by the auditors appointed by the Federal Government, on the basis of the Balance Sheet of such establishment, drawn up as on the date of acquisition, to be prepared and verified by such auditors. The Net Worth Value shall be determined by valuing the Fixed Tangible Assets appearing in the Balance Sheet at their written down values, and valuing the Current Assets, *e.g.* stores, inventory, work in progress, advances and prepayments, cash and bank balances, at their cost or market value, whichever is lower. From the sum total of the Fixed and the Current Assets so valued as aforesaid, all the outstanding liabilities appearing in the Balance Sheet shall be deducted, thereby arriving at the Net Worth Value of the proprietary interests in such establishment.

FAZAL ELAHI CHAUDHRY,
The President.

Countersigned.

ZULFIKAR ALI BHUTTO,
Prime Minister.

MIR MOHAMMAD ALI,
Draftsman
*and Ex-*officio *Additional Secretary.*

No. F. 24 (1)R|76. Pub.—The following Ordinance made by the President on the 17th July, 1976 is hereby published for general information :—

ORDINANCE No. XXV OF 1976

THE RICE MILLING CONTROL AND DEVELOPMENT ORDINANCE, 1976

An Ordinance to regulate the operation and development of rice milling

WHEREAS it is expedient to make provision to regulate the operation and development of rice milling and to provide for matters connected therewith or incidental thereto ;

AND WHEREAS paragraph (b) of clause (1) of Article 253 of the Constitution provides that Parliament may by law declare that any trade, business, industry or service specified in such law shall be carried on or owned, to the exclusion, complete or partial, of other persons, by the Federal Government or a Provincial Government or by a corporation controlled by any such Government ;

AND WHEREAS the National Assembly is not in session, and the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President is pleased to make and promulgate the following Ordinance ;

1. **Short title, extent and commencement.**—(1) This Ordinance may be called the Rice Milling Control and Development Ordinance, 1976.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. **Definitions.**—In this Ordinance, unless there is anything repugnant in the subject or context,—

(a) " acquired establishment " means an establishment in respect of which an order has been made under section 5 ;

(b) " bank rate " means the bank rate determined and made public under the provisions of the State Bank of Pakistan Act, 1956 (XXXIII of 1956) ;

(c) " Board " means the Board of Directors of the Corporation.

(d) " Chairman " means Chairman of the Corporation ;

(e) " Corporation " means the Rice Milling Corporation of Pakistan established under section 7 ;

(f) " creditor " means any person to whom an acquired establishment owes any amount of money ;

(g) " debtor " means a person who owes any amount of money to an acquired establishment ;

(h) "establishment" means any company, firm, concern, institution or enterprise the whole or any part of the under-taking of which pertains to the industry, and includes the business related to the industry and any office, shop, factory, building, godown, yard, stocks, stores, vehicles, and assets in any form, so related, wherever they may be ;

Explanation.—The Federal Government shall decide whether the business is related or not to the industry and the decision of the Federal Government shall be final ;

(i) "foreign investor" means a person, other than a citizen of Pakistan, who has made investment in Pakistan and to whom—

  (i) The Federal Government has given an assurance that he will have the right to repatriate from Pakistan the amount of his investment or the income arising therefrom or both such amount and such income ; or

  (ii) The Federal Government has not given such assurance but whom it has assured that, in the event of compulsory acquisition of the shares held in an establishment by the shareholders he will not be treated less favourably than an investor to whom such assurance had been given ;

(j) "industry" means the rice milling industry, composed of one or more rice mills equipped with hullers, shellers or automatic plant ;

(k) "Manager" in relation to an establishment means the Manager appointed under section 14 ;

(l) "person" includes an individual, a Hindu undivided family, a partnership firm and an association of persons or a body of individuals, Government of a Province and a local authority ;

(m) "previous management" in relation to an establishment means the person, board of directors or other body or authority in whom or in which the management of the establishment vested immediately before an order has been made section 5 in respect thereof ;

(n) "shareholder" means a sharholder in the share capital of an establishment and includes a stockholder ;

(o) words and expressions used but not defined in this Ordinance shall have the same meaning as in the Companies Act, 1913 (VII of 1913).

3. **Declaration.**—It is hereby declared that the industry shall be carried on and owned by the Federal Government, or by the Corporation, to the exclusion of all other persons, except a foreign investor.

4. **Ordinance to override other laws.**—The provisions of this Ordinance shall have effect notwithstanding anything contained in the Companies Act, 1913 (VII of 1913), or the Companies (Managing Agency and Election of Directors) Order, 1972 (P.O. No. 2 of 1972), or any other law for the time being in force, or any agreement, contract, memorandum or article of association of a company.

5. **Power to acquire ownership and management.**—(1) The Federal Government may, by an order published in the Official Gazette, acquire the ownership and management of any establishment ;

(2) On the making of such order,—

(a) the previous management shall stand divested of such management;

(b) in the case of an establishment which is a company or an establishment owned by a company, the shares of the company or the proprietary interest of the company in the establishment shall, in the discretion of the Federal Government, vest in that Government;

(c) in the case of an establishment owned by a person, the proprietary interest of such person shall vest in the Federal Government:

Provided that nothing in this sub-section shall apply to the shares or proprietary interest held by a foreign investor.

6. **Tranfer of ownership and management.**—The Federal Government may, by notification in the official Gazette, transfer the ownership and management of an acquired establishment to the Corporation.

7. **Rice Milling Corporation of Pakistan.**—(1) There shall be a corporation to be known as the Rice Milling Corporation of Pakistan.

(2) The Corporation shall be a body corporate having perpetual succession and a common seal, with power to hold and acquire property, and shall sue and be sued by its name.

(3) The Federal Government shall, as soon as may be, appoint the Chairman of the Corporation who shall be the chief executive thereof and a Board of Directors composed of not more than nine members.

(4) The Chairman and the Directors shall hold office during the pleasure of the Federal Government on such terms and conditions as it may determine.

(5) The Corporation shall own, manage and direct the affairs of the acquired establishments, and is hereby empowered to set up such new establishments as it may deem fit.

8. **Functions of the Corporation.**—The Corporation shall ensure efficient operation of the acquired establishments and perform such other functions as may, from time to time, be assigned to it by the Federal Government.

9. **Fund of the Corporation.**—There shall be constituted for the Corporation a Fund to which shall be credited all the sums received by the Corporation and out of which shall be defrayed all expenditure incurred by the Corporation including expenditure on the emoluments of the Chairman, Directors, officers, staff, experts and consultants of the Corporation.

10. **Capital of the Corporation.**—The capital of the Corporation shall be provided wholly by the Federal Government which shall also determine the amount of such capital, and the terms and conditions on which it shall be provided.

11. **Officers, etc., of the Corporation.**—The Corporation may from time to time appoint such officers, staff, experts and consultants as it may deem fit and may determine their terms and conditions of service.

12. **Assistance to the Corporation.**—The Federal Government, or a Provincial Government, shall provide such assistance as may be needed by the Corporation for carrying out the purposes of this Ordinance.

13. **Head office of the Corporation.**—(1) The head office of the Corporation shall be at Lahore.

(2) The Corporation may set up such regional and other offices as it may require.

14. **Appointment of Managers.**—(1) Where the Federal Government has made an order under section 6 in respect of an establishment, the Corporation may appoint a Manager in respect of such establishment.

(2) Upon the appointment of Manager in respect of an establishment, the administration and management of the affairs of such establishment shall vest in the Manager subject to such directions as the Corporation may give from time to time in this behalf.

(3) The Manager shall hold office during the pleasure of the Corporation on such terms and conditions as may be specified by the Corporation.

15. **Regulations.**—The Corporation may, with the prior approval in writing of the Federal Government, make such regulations as appear to it to be necessary for carrying out the purposes of this Ordinance.

16. **Delegation of Powers; etc.**—(1) The Federal Government may, by notification in the official Gazette, direct that all or any of its powers under this Ordinance shall, in such circumstances and subject to such conditions as may be specified in the notification, be exerciseable by the Corporation or by any other person.

(2) The Federal Government may from time to time issue such directions to, and call for such information or reports from, the Corporation as the Federal Government may deem expedient.

17. **Compensation.**—Where the Federal Government acquires the ownership of any establishment under section 5, there shall be paid compensation the amount of which shall be determined and paid by the Federal Government on the basis of the principles set out in the Schedule.

18. **Reorganisation.**—Where the shares of a company are owned wholly by the Corporation, the assets and liabilities of such company may, with the prior approval in writing of the Federal Government, be acquired by the Corporation, whereafter the company shall stand wound up.

19. **Prohibition to obstruct.**—No person shall, unless so authorised by the Federal Government or the Corporation, give any instruction to the Manager, nor shall any person in any manner obstruct him in the discharge of his duties or the performance of his functions.

20. **Debtor.**—(1) The Corporation may, by notice in writing, call upon a debtor to pay to, the Corporation or to the acquired establishment specified in such notice, the amount of money due from him to be establishment, within a period of thirty days commencing from the date of receipt of such notice by the debtor.

(2) Where the debtor fails to pay the amount due from him within the period specified in the notice under sub-section (1), the Corporation shall have the same power of effecting recovery as the Industrial Development Bank of Pakistan has under sections 39, 40 and 41 of the Industrial Development Bank of Pakistan Ordinance, 1961 (XXXI of 1961).

21. **Creditor.**—(1) A creditor of an acquired establishment may apply to the Corporation for payment of the amount due to him from such establishment.

(2) The Corporation may, on receipt of an application under sub-section (1), and after such enquiry as it may deem fit, either reject such application, or, if satisfied, direct the acquired establishment to pay the amount due to the creditor in such instalments and within such period as may be specified in the directions.

22. **Power to revoke contract, etc.**— If any contract or agreement entered into, or any obligation undertaken, by any previous management of an acquired establishment is declared by the Federal Government to be repugnant to the interest of the establishment, such contract, agreement or obligation shall stand revoked and the establishment shall not be liable for any loss or damage suffered by the previous management by reason of such revocation:

Provided that a declaration under this section shall be made after such enquiry as the Federal Government may deem fit and after giving an opportunity to the person or persons with whom such contract or agreement was entered into, or to whom such obligation was undertaken, to show cause why such declaration shall not be made:

Provided further that this section shall not be construed as preventing any party to the contract, agreement or obligation so revoked from initiating action in a court of law against the previous management.

23. **Continuance in service of the employees.**—(1) Every wholetime employee who was employed by an acquired establishment immediately before the date of acquisition shall, on and from the date of acquisition, become an employee of the Corporation, and shall continue to hold his office on the same terms and conditions as were applicable to him immediately before such acquisition, until his employment in the Corporation is terminated or his terms and conditions of service are altered by the Corporation:

Provided that if a question arises whether a person was a wholetime employee of an establishment or not, the decision of the Corporation shall be final.

(2) Where any employee of the acquired establishment has under the provisions of sub-section (1) become the employee of the Corporation, the Corporation may alter the terms and conditions of service of such employee as it thinks, fit, and, if the alteration is not acceptable to the employee, the Corporation may terminate his employment by giving him compensation equivalent to his remuneration for three months, or, if his contract of service provides for a shorter notice for termination of employment for the period so provided.

Explanation.—The compensation payable to an employee under sub-section (2) shall be in addition to, and not in derogation of, any of his rights as to pension, gratuity, provident fund money or other benefit to which he may be entitled under his contract of service.

(3) The Corporation may, at its discretion, transfer an employee from an acquired establishment to any other such establishment under its control or to any office of he Corporation.

(4) The transfer of the services of an employee of an establishment to the Corporation shall not, except as provided in this section, entitle any such employee to any compensation, and no such claim shall be entertained by any court, tribunal or other authority.

24. **General effect of vesting of establishment.**—(1) Where the management of an acquired establishment has been transferred to the Corporation under section 6, all contracts, agreements and other instruments of whatever nature subsisting or having effect immediately before the date of the transfer, to which an acquired establishment was a party or which were in respect of such establishment, shall, subject to the provisions of section 22, be of as full force and effect against or in favour of the Corporation, and may be enforced or acted upon as fully and effectively as if, instead of the establishment, the Corporation had been a party thereto, or as if they had been entered into or issued in respect of the Corporation.

(2) If on the date of the transfer of an acquired establishment to the Corporation any suit, appeal or legal proceeding of whatever nature is pending by or against such establishment, it shall not abate, discontinue or be in any way prejudicially affected by reason of such transfer or anything done under this Ordinance but the suit, appeal or other proceeding may be continued, prosecuted and enforced by or against the Corporation.

25. **Duty to deliver possession of property.**—(1) Every person who has in his possession, custody or control any property of an acquired establishment shall forthwith deliver such property to the Corporation.

(2) Without prejudice to the provisions of sub-section (1), it shall be lawful for the Corporation to take all necessary steps for acquiring possession of all properties which have been vested in it under this Ordinance.

Explanation.—In this section, " property " means property of any kind including books, documents and papers and also includes any right or interest in such property.

26. **Provident, superannuation and other like funds.**—(1) Where an establishment which has been transferred to the Corporation under section 6, has established a provident or superannuation fund or any other like fund for the benefit of its employees, and has constituted a trust in respect thereof, hereinafter referred to as an existing trust, the moneys standing to the credit of any such fund on the appointed date, together with any other assets pertaining to such fund, shall, subject to the provisions of sub-section (2), vest in the Corporation from the date of such transfer.

(2) Where the employees of any such establishment do not become the employees of the Corporation under section 23, the moneys and other assets belonging to any such fund as is referred to in sub-section (1) shall be apportioned between the persons responsible for the fund and the Corporation in such manner as may be prescribed by rules, and in the case of any dispute regarding such apportionment, the decision of the Federal Government shall be final.

(2) The Corporation shall, as soon as may be after an establishment is transferred to it under section 6, constitute in respect of the moneys and other assets which are vested in it under this section one or more trusts having objects as similar to the objects of the existing trusts as in the circumstances may be practicable.

(4) Where all the moneys and other assets belonging to an existing trust are vested in the Corporation under this section, the person responsible for such trust shall, as from the date of such transfer, be discharged from the trust, except in respect of things done or omitted to be done before the transfer of the establishment.

27. **Bar to jurisdiction.**—(1) No court shall call in question or permit to be called in question any provision of this Ordinance, or of any rule or order made, or anything done or any action taken thereunder.

(2) No court shall grant any injunction, or make any order, nor shall any court entertain any proceedings in relation to anything done or intended to be done under this Ordinance.

28. **Indemnity.**—No suit, prosecution or other legal proceedings shall lie against the Federal Government, the Corporation a Manager or any other person for anything in good faith done or intended to be done under this Ordinance or any rule or order made thereunder.

29. **Penalties.**—Whoever—

(1) obstructs or resists or hinders any person in the discharge of his duties under this Ordinance ; or

(2) destroys, tampers with, alters or defaces any property or document belonging, or pertaining, to an acquired establishment ; or

(3) refuses or fails to deliver possession of any property or document belonging or pertaining to an acquired establishment ; or

(4) contravenes any of the provisions of section 19 or section 25 of the Ordinance, shall be punishable with rigorous imprisonment for a term which may extend to three years, or with fine, or with both :

Provided that no Court shall take cognisance of an offence under this Ordinance unless a complaint in this behalf is made by the Corporation.

30. **Change of name of an acquired establishment.**—The Federal Government may, by notification in the official Gazette, specify a new name by which an acquired establishment shall be known from such date as may be specified in the notification.

31. **Composite enterprises and organisations.**—Where an acquired establishment is engaged in a business not directly related to the industry, the Federal Governmennt may take such action for the bifurcation of such business from business directly related to the industry as it may deem fit ; and the decision of the Federal Government as to such bifurcation shall be final.

32. **Power to make rules.**—(1) The Federal Government may make rules for carrying out the purposes of this Ordinance.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for, or empower the Corporation to make orders providing for all or any of the following matters, namely :—

(a) ensuring the safety of the properties of an acquired establishment ;

(b) ensuring the due performance of their duties by the persons connected with the acquired establishment ;

(c) prohibiting anything likely to interfere with the proper functioning of an acquired establishment ;

(d) the administration, management and disposal, by way of transfer or otherwise, of any property relating to or held or managed by or on behalf of an acquired establishment ;

(e) prohibiting the departure from any area of any person conected with the administration, control or functions of an acquired establishment, save with the leave of the Manager, or any other person authorised in this behalf by the Federal Government or the Corporation ;

(f) the taking over or control of any business, trade, industry, firm or company which in the opinion of the Federal Government is a subsidiary of the acquired establishment ;

(g) the requisitioning of any property, movable or immovable belonging to an acquired establishment ;

(h) the requisitioning of any property, movable or immovable, the requisition of which is, in the opinion of the Federal Government, required for the proper functioning of an acquired establishment ;

(i) preventing the entry of any person into any place, yard, factory, mill, shop, or office used for the purpose of an acquired establishment, or of any of its subsidiaries ;

(j) the taking of any steps for collecting, controlling and disposing of the assets, movable or immovable, of an acquired establishment ;

(k) preparation and audit of accounts of the Corporation and of the acquired establishments and matters ancillary thereto ; and

(l) control of the Federal Government over the accounts of the Corporation and of the acquired establishments.

33. **Removal of difficulties.**—If any difficulty arises in giving effect to any provision of this Ordinance, the Federal Government may make such order, not inconsistent with the provisions of this Ordinance, as may appear to it to be necessary for the purpose of removing the difficulty :

Provided that no such power shall be exercised after the expiry of one year from the commencement of this Ordinance.

THE SCHEDULE

(*See* section 17)

Principles and the manner for payment of connpensation in respect of the shares or proprietary interests of an establishment acquired by the Federal Government.

1. The value of the compensation for the shares of establishments acquired by the Federal Government shall be assessed—

(a) in the case of the shares not quoted on any of the stock exchanges, at the Break-up Value, and

(b) in the case of the shares quoted on any of the stock exchanges, at the Break-up Value or the Market Value, whichever is more, provided that the Market Value will be taken into account only if the shares have been traded on the stock exchange for at least three years, and not less than 30% of the shares have been traded during the three years proceeding the date of the acquisition of the shares.

2. Where the properietary interests in such an establishment are acquired by the Federal Government, the value of the compensation for the interests so acquired shall be assessed at the Net Worth of the proprietary interests of such establishments.

3. The compensation payable in accordance with the principles indicated above shall be paid by the Federal Government in cash or in the form of Government Bonds redeemable at any time at the option of the Federal Government within a period of fifteen years, and carrying, with effect from the date of acquisition, a rate of interest one per cent above the bank rate as notified by the State Bank of Pakistan from time to time. In the case of persons holding shares of a total value less than Rs. 5,000, the Bonds will be redeemable within a period of two years. The Bonds shall be negotiable and shall be eligible as security for advances.

4. **Definitions.**—In this Schedule,—

(a) "Break-up Value" shall mean the value of the shares of a company as determined by the Auditors appointed by the Federal Government on the basis of the Balance Sheet of the company, drawn up as on the date of acquisition, to be prepared and verified by such auditors in accordance with clause (c) of sub-rule (2) of rule 8 of the Wealth-tax Rules ;

(b) "Market Value" shall mean the average value of the shares of a company as quoted on the stock exchange nearest to the Head Office of the company on closing on all working days within three years of the date of order of acquisition of such shares under this Ordinance ;

(c) "Net Worth Value" shall mean the value of the proprietary interests of a company of other person in an establishment which are acquired under this Ordinance, as determined by the auditors appointed by the Federal Government, on the basis of the Balance Sheet of such establishment, drawn up as on the date of acquisition, to be prepared and verified by such auditors. The Net Worth Value shall be determined by valuing the Fixed Tangible Assets appearing in the Balance Sheet at their written down values, and valuing the Current Assets, *e.g.* stores, inventory, work in progress, advances and prepayments, cash and bank balances, at their cost or market value, whichever is lower. From the sum total of the Fixed and the Current Assets so valued as aforesaid, all the outstanding liabilities appearing in the Balance Sheet shall be deducted, thereby arriving at the Net Worth Value of the proprietary interests in such establishment.

FAZAL ELAHI CHAUDHRY,
President.

Countersigned.
ZULFIKAR ALI BHUTTO,
Prime Minister.

MIR MOHAMMAD ALI,
Draftsman and
Ex-officio *Additional Secretary.*

No. F. 24 (1)|76-Pub.—The following Ordinance made by the President on the 17th July, 1976 is hereby published for general information :—

ORDINANCE No. XXVI OF 1976

THE COTTON GINNING CONTROL AND DEVELOPMENT ORDINANCE, 1976

An Ordinance to regulate the operation and development of cotton ginning

WHEREAS it is expedient to make provision to regulate the operation and development of cotton ginning and to provide for matters connected therewith or incidental thereto ;

AND WHEREAS paragraph (b) of clause (1) of Article 253 of the Constitution provides that Parliament may by law declare that any trade, business, industry or service specified in such law shall be carried on or owned, to the exclusion, complete or partial, of other persons, by the Federal Government or a Provincial Government or by a corporation controlled by any such Government ;

AND WHEREAS the National Assembly is not in session, and the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President is pleased to make and promulgate the following Ordinance :

1. **Short title, extent and commencement.**—(1) This Ordinance may be called the Cotton Ginning Control and Development Ordinance, 1976.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. **Definitions.**—In this Ordinance, unless there is anything repugnant in the subject or context,—

(a) "acquired establishment" means an establishment in respect of which an order has been made under section 5 ;

(b) "bank rate" means the bank rate determined and made public under the provisions of the State Bank of Pakistan Act, 1956 (XXXIII) of 1956) ;

(c) "Corporation" means the Cotton Trading Corporation of Pakistan ;

(d) "creditor" means any person to whom an acquired establishment owes any amount of money ;

(e) "debtor" means a person who owes any amount of money to an acquired establishment ;

(f) "establishment" means any company, firm, concern, institution or enterprise the whole or any part of the undertaking of which pertains to the industry, and includes the business related to the industry, and any office, shop, building, factory, godown, yard, stocks, stores, vehicles and assets in any form, so related, wherever they may be ;

Explanation.—The Federal Government shall decide whether the business is related or not to the industry and the decision of the Federal Government shall be final ;

(g) "foreign investor" means a person, other than a citizen of Pakistan, who has made investment in Pakistan and to whom—

(i) the Federal Government has given an assurance that he will have the right to repatriate from Pakistan the amount of his investment or the income arising therefrom or both such amount and such income ; or

(ii) the Federal Government has not given such assurance but whom it has assured that, in the event of compulsory acquisition of the shares held in an establishment by the shareholders, he will not be treated less favourably than an investor to whom such assurance had been given ;

(h) "industry" means the cotton ginning industry, composed of one or more cotton ginning factories ;

(i) "Manager" in relation to an establishment means the Manager appointed under section 7 ;

(j) "person" includes an individual, a Hindu undivided family, a partnership firm and an association of persons or a body of individuals, Government of a Province and a local authority ;

(k) "previous management" in relation to an establishment means the person, board of directors or other body or authority in whom or in which the management of the establishment vested immediately before an order has been made under section 5 in respect thereof ;

(l) "shareholder" means a shareholder in the share capital of an establishment and includes a stockholder ; and

(m) words and expressions used but not defined in this Ordinance shall have the same meaning as in the Companies Act, 1913 (VII of 1913).

3. **Declaration.**—It is hereby declared that the industry shall be carried on and owned by the Federal Government, or a Corporation controlled by the Federal Government, to the exclusion of all other persons, except a foreign investor.

4. **Ordinance to override other laws.**—The provisions of this Ordinance shall have effect notwithstanding anything contained in the Companies Act, 1913 (VII of 1913), or the Companies (Managing Agency and Election of Directors) Order, 1972 (P.O. No. 2 of 1972), or any other law for the time being in force, or any agreement, contract, memorandum or articles of association of a company.

5. **Power to acquire ownership and management.**—(1) The Federal Gvernment may, by an order published in the official Gazette, acquire the ownership and management of any establishment.

(2) As from the date of such order,—

(a) the previous management shall stand divested of such management ;

(b) in the case of an establishment which is a company or an establishment owned by a company, the shares of the company or the proprietary interest of the company in the establishment shall, in the discretion of the Federal Government, vest in that Government ;

(c) in the case of an establishment owned by a person, the proprietary interest of such person shall vest in the Federal Government;

Provided that nothing in sub-section (2) shall apply to the shares, or the proprietary interest, held by a foreign investor.

6. **Transfer of ownership and management.**—The Federal Government may, by notification in the official Gazette, transfer the ownership and management of an acquired establishment to the Corporation.

7. **Appointment of Managers.**—(1) Where the Federal Government has made an order under section 6 in respect of an establishment, the Corporation may appoint a Manager in respect of such establishment.

(2) Upon the appointment of a Manager in respect of an acquired establishment, the administration and management of the affairs of such establishment shall vest in the Manager, subject to such directions as the Corporation may give from time to time in this behalf.

(3) The Manager shall hold office during the pleasure of the Corporation on such terms and conditions as may be specified by the Corporation.

8. **Regulations.**—The Corporation may, with the prior approval in writing of the Federal Government, make such regulations as appear to it to be necessary for carrying out the purposes of this Ordinance.

9. **Delegation of powers, etc.**—(1) The Federal Government may, by notification in the official Gazette, direct that all or any of its powers under this Ordinance shall, in such circumstances and subject to such conditions as may be specified in the notification, be exerciseable also by the Corporation or any other person.

(2) The Federal Government may from time to time issue such directions to, and call for such information or reports from the Corporation as the Federal Government may deem expedient.

10. **Compensation.**—Where the Federal Government acquires the shares and proprietary interests of an establishment under section 5, there shall be paid compensation the amount of which shall be determined and paid by the Federal Government on the basis of the principles set out in the Schedule.

11. **Reorganisation.**—Where the shares of a company are owned wholly by the Corporation, the assets and liabilities of such company may, with the prior approval in writing of the Federal Government, be acquired by the Corporation, whereafter the company shall stand wound up.

12. **Prohibition to obstruct.**—No person shall, unless so authorised by the Federal Government, or the Corporation, give any instruction to the Manager, nor shall any person in any manner obstruct him in the discharge of his duties or the performance of his functions.

13. **Debtor.**—(1) The Corporation may, by notice in writing, call upon a debtor to pay to the Corporation or to the acquired establishment specified in such notice, the amount of money due from him to the establishment, within a period of thirty days commencing from the date of receipt of such notice by the debtor.

(2) Where the debtor fails to pay the amount due from him within the period specified in the notice under sub-section (1), the Corporation shall have the same power of effecting recovery as the Industrial Development Bank of Pakistan has under sections 39, 40 and 41 of the Industrial Development Bank of Pakistan Ordinance, 1961 (XXXI of 1961).

14. **Creditor.**—(1) A creditor of an acquired establishment may apply to the Corporation for payment of the amount due to him from the establishment.

(2) The Corporation may, on receipt of an application under sub-section (1) and after such enquiry as it may deem fit, either reject such application or, if satisfied, direct the acquired establishment to pay the amount due to the creditor in such instalments and within such period as may be specified in the directions.

15. **Power to revoke contract, etc.**—If any contract or agreement entered into, or any obligation undertaken, by any previous management of an acquired establishment is declared by the Federal Government to be repugnant to the interest of the establishment, such contract, agreement or obligation shall stand revoked and the establishment shall not be liable for any loss or damage suffered by the previous management by reason of such revocation:

Provided that a declaration under this section shall be made after such enquiry as the Federal Government may deem fit and after giving an opportunity to the person or persons with whom such contract or agreement was entered into, or to whom such obligation was undertaken, to show cause why such declaration shall not be made:

Provided further that this section shall not be construed as preventing any party to the contract, agreement or obligation so revoked from initiating action in a court of law against the previous management.

16. **Continuance in service of the employees.**—(1) Every wholetime employee who was employed by an acquired establishment immediately before the date of acquisition shall, on and from the date of such acquisition, become an employee of the Corporation, and shall continue to hold his office on the same terms and conditions as were applicable to him immediately before such acquisition, until his employment in the Corporation is terminated or his terms and conditions of service are altered by the Corporation:

Provided that, if a question arises whether a person was a wholetime employee of an establishment or not, the decision of the Corporation shall be final.

(2) Where any employee of the acquired establishment has under the provisions of sub-section (1) become an employee of the Corporation, the Corporation may alter the terms and conditions of service of such employee as it thinks fit, and, if the alteration is not acceptable to the employee, the Corporation may terminate his employment by giving him compensation equivalent to his remuneration for three months, or, if his contract of service provides for a shorter notice for termination of employment, for the period so provided.

Explanation.—The compensation payable to an employee under sub-section (2) shall be in addition to, and not in derogation of, any of his rights as to pension, gratuity, provident fund money or other benefit to which he may be entitled under his contract of service.

(3 The Corporation may at its discretion transfer an employee from an acquired establishment to any other such establishment under its control or to any office of the Corporation.

(4) The transfer of the services of an employee of an establishment to the Corporation shall not, except as provided in this section, entitle any such employee to any compensation, and no such claim shall be entertained by any court, tribunal or other authority.

17. **General effect of vesting of establishment.**—(1) All contracts, agreements and other instruments of whatever nature subsisting of having effect immediately before the date of the acquisition, to which any acquired establishment was a party or which were in respect of such establishment, shall, subject to the provisions of section 15, be of as full force and effect against or in favour of the Corporation, and may be enforced or acted upon as fully and effectively as if, instead of the establishment, the Corporation had been a party thereto, or as if they had been entered into or issued in respect of the Corporation.

(2) If on the date of the acquisition of the management of an establishment, any suit, appeal or legal proceeding of whatever nature is pending by or against such establishment, it shall not abate, discontinue or be in any way prejudicially affected by reason of such acquisition or anything done under this Ordinance, but the suit, appeal or other proceeding may be continued, prosecuted and enforced by or against the Corporation.

18. **Duty to deliver possession of property.**—(1) Every person who has in his possession, custody or control any property of an acquired establishment shall forthwith deliver the property to the Corporation.

(2) Without prejudice to the provisions of sub-section (1), it shall be lawful for the Corporation to take all necessary steps for acquiring possession of all properties which have been transferred to, and vested in, it under this Ordinance.

Explanation.—In this section, " property " means property of any kind including books, documents and papers and also includes any right or interest in such property.

19. **Provident, superannuation and other like funds.**—(1) Where an establishment, which has been transferred to the Corporation under section 6, has established a provident or superannuation fund or any other like fund for the benefit of its employees, and has constituted a trust in respect thereof, hereinafter referred to as an existing trust, the moneys standing to the credit of any such fund on the appointed date, together with any other assets pertaining to such fund, shall, subject to the provisions of sub-section (2), vest in the Corporation from the date of such transfer.

(2) Where the employees of any such establishment do not become the employees of the Corporation under section 16, the moneys and other assets belonging to any such fund as is referred to in sub-section (1) shall be apportioned between the persons responsible for the fund and the Corporation in such manner as may be prescribed by rules, and in the case of any dispute regarding such apportionment, the decision of the Federal Government shall be final.

(3) The Corporation shall, as soon as may be after an establishment is transferred to it under section 6, constitute in respect of the moneys and other assets which are vested in it under this section, one or more trusts having objects as similar to the objects of the existing trusts as in the circumstance may be practicable.

(4) Where all the moneys and other assets belonging to an existing trust are vested in the Corporation under this section, the person responsible for such trust shall, as from the date of such transfer, be discharged from the trust, except in respect of things done or omitted to be done before the date of the transfer of the establishment.

20. **Bar of jurisdiction.**—(1) No court shall call in question or permit to be called in question any provision of this Ordinance, or of any rule or order made, or anything done or any action taken thereunder.

(2) No court shall grant any injunction or make any order, nor shall any court entertain any proceedings, in relation to anything done or intended to be done under this Ordinance.

21. **Indemnity.**—No suit, prosecution or other legal proceedings shall lie against the Federal Government, the Corporation, a Manager or any other person for anything in good faith done or intended to be done under this Ordinance or any rule or order made thereunder.

22. **Assistance to the Corporation.**—The Federal Government, or a Provincial Government, shall provide such assistance as may be needed by the Corporation for carrying out the purposes of this Ordinance.

23. **Penalities.**—Whoever—

(1) Obstructs or resists or hinders any person in the discharge of his duties under this Ordinance ; or

(2) destroys, tampers with, alters or defaces any property or document belonging, or pertaining, to an acquired establishment ; or

(3) refuses or fails to deliver possession of any property or document belonging or pertaining to an acquired establishment ; or

(4) contravenes any of the provisions of section 12 or section 18 shall be punishable with rigorous imprisonment for a term which may extend to three years, or with fine or with both :

Provided that no court shall take cognisance of an offence under this Ordinance unless a complaint in this behalf is made by the Corporation.

24. **Change of name of an acquired establishment.**—The Federal Government may, by notification in the official Gazette, specify a new name by which an acquired establishment shall be known from such date as may be specified in the notification.

25. **Composite enterprises and organisations.**—When an acquired establishment is engaged in a business not directly related to the industry, the Federal Government may take such action for the bifurcation of such business from business directly related to the industry as it may deem fit ; and the decision of the Federal Government as to such bifurcation shall be final.

26. **Power to make rules.**—(1) The Federal Government may make rules for carrying out the purposes of this Ordinance.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for, or may empower the Corporation to make orders providing for all or any of the following matters, namely :—

(a) ensuring the safety of the properties of an acquired establishment ;

(b) ensuring the due performance of their duties by the persons connected with an acquired establishment ;

(c) prohibiting anything likely to interfere with the proper functioning of an acquired establishment ;

(d) the administration, management and disposal, by way of transfer or otherwise, of any property relating to or held or managed by or on behalf of an acquired establishment ;

(e) prohibiting the departure from any area of any person connected with the administration, control or functioning of an acquired establishment, save with the leave of the Manager, or any other person authorised in this behalf by the Corporation ;

(f) the acquisition or control of any business, trade, industry, firm or company which in the opinion of the Federal Government is a subsidiary of the acquired establishment ;

(g) the requisitioning of any property, movable or immovable, belonging to an acquired establishment ;

(h) the requisitioning of any property, movable or immovable, the requisitioning of which is, in the opinion of the Federal Government, required for the proper functioning of an acquired establishment ;

(i) preventing the entry of any person into any place, yard, factory, mill, shop, or office used for the purpose of an acquired establishment, or of any of its subsidiaries ;

(j) the taking of any steps for collecting, controlling and disposing of the assets, movable or immovable, of any acquired establishment ;

(k) preparation and audit of accounts of the Corporation and of the acquired establishments, and matters ancillary thereto ; and

(l) control of the Federal Government over the accounts of the Corporation and of the acquired establishments.

27. **Removal of difficulties.**—If any difficulty arises in giving effect to any provision of this Ordinance the Federal Government may make such order, not inconsistent with the provisions of this Ordinance, as may appear to it to be necessary for the purpose of removing the difficulty :

Provided that no such power shall be exercised after the expiry of one year from the commencement of this Ordinance.

THE SCHEDULE

(*See* section 10)

Principles and the manner for payment of compensation in respect of the shares or proprietary interests of an establishment acquired by the Federal Government.

1. The value of the compensation for the shares of establishments acquired by the Federal Government shall be assessed—

1. The value of the compensation for the shares of establishments acquired at the Break-up Value, and

(b) in the case of the shares quoted on any of the stock exchanges, at the Break-up Value or the Market Value, whichever is more, provided that the Market Value will be taken into account only if the shares have been traded on the stock exchange for at least three years, and not less than 30% of the shares have been traded during the three years preceding the date of the acquisition of the shares.

2. Where the proprietary interests in such an establishment are acquired by the Federal Government, the value of the compensation for the interests so acquired shall be assessed at the Net Worth of the proprietary interests of such establishments.

3. The compensation payable in accordance with the principles indicated above shall be paid by the Federal Government in cash or in the form of Government Bonds redeemable at any time at the option of the Federal Government within a period of fifteen years, and carrying, with effect from the date of acquisition, a rate of interest one per cent above the bank rate as notified by the State Bank of Pakistan from time to time. In the case of persons holding shares of a total value less than Rs. 5,000, the Bonds will be redeemable within a period of two years. The Bonds shall be negotiable and shall be eligible as security for advances.

4. **Definitions.**—In this Schedule,—

(a) "Break-up Value" shall mean the value of the shares of a company as determined by the Auditors appointed by the Federal Government on the basis of the Balance Sheet of the company, drawn up as on the date of acquisition, to be prepared and verified by such auditors in accordance with clause (c) of sub-rule (2) of rule 8 of the Wealth-tax Rules;

(b) "Market Value" shall mean the average value of the shares of a company as quoted on the stock exchange nearest to the Head Office of the company on closing on all working days within three years of the date of order of acquisition of such shares under this Ordinance;

(c) "Net Worth Value" shall mean the value of the proprietary interests of a company or other person in an establishment which are acquired under this Ordinance, as determined by the auditors appointed by the Federal Government, on the basis of the Balance Sheet of such establishment, drawn up as on the date of acquisition, to be prepared and verified by such auditors. The Net Worth Value shall be determined by valuing the Fixed Tangible Assets appearing in the Balance Sheet at their written down values, and valuing the Current Assets, *e.g.* stores, inventory, work in progress, advances and prepayments, cash and bank balances, at their cost or market value, whichever is lower. From the sum total of the Fixed and the Current Assets so valued as aforesaid, all the outstanding liabilities appearing in the Balance Sheet shall be deducted, thereby arriving at the Net Worth Value of the proprietary interests in such establishment.

FAZAL ELAHI CHAUDHRY.
President.

Countersigned.

ZULFIKAR ALI BHUTTO,
Prime Minister.

MIR MOHAMMAD ALI,
Draftsman and
Ex-officio *Additional Secretary.*

No. 24 (1)|76-Pub.—The following Ordinance made by the President on the 7th July, 1976 is hereby published for general information :—

ORDINANCE No. XXVII OF 1976

AN

ORDINANCE

further to amend the Land Reforms (Baluchistan Pat Feeder Canal) Regulation, 1972.

WHEREAS it is expedient further to amend the Land Reforms (Baluchistan Pat Feeder Canal) Regulation, 1972, for the purpose hereinafter appearing ;

AND WHEREAS the Proclamation of Emergency referred to in Article 280 of the Constitution of the Islamic Republic of Pakistan is in force ;

AND WHEREAS the National Assembly is not in session and the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the Land Reforms (Baluchistan Pat Feeder Canal) (Amendment) Ordinance, 1976.

(2) It shall come into force at once.

2. **Amendment of paragraph 6 of the Regulation.**—In the Land Reforms (Baluchistan Pat Feeder Canal) Regulation, 1972, in paragraph 6, for sub-paragraph (3) the following shall be substituted, namely :—

"(3) The land granted to—

(a) a tenant or a landless person shall not exceed sixteen acres ; and

(b) joint tenants shall not exceed thirty-two acres."

FAZAL ELAHI CHAUDHRY,
President.

Countersigned :

ZULFIKAR ALI BHUTTO,
Prime Minister.

MIR MOHAMMAD ALI,
Draftsman and Ex-Officio *Additional Secretary.*

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ISLAMABAD, TUESDAY, JULY 20, 1976

PART I

Acts, Ordinances, President's Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 20th July, 1976

No. F. 24 (1)|76-Pub.—The following Ordinance made by the President on the 18th July, 1976 is hereby published for general information :—

ORDINANCE No. XXVII OF 1976

AN

ORDINANCE

further to amend the Suppression of Terrorist Activities (Special Courts) Act, 1975

WHEREAS it is expedient further to amend the Suppression of Terrorist Activities (Special Courts) Act, 1975 (XV of 1975), for the purpose hereinafter appearing ;

AND WHEREAS the National Assembly is not in session and the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the Suppression of Terrorist Activities (Special Courts) (Amendment) Ordinance, 1976.

Price : Ps. 9

[2656 Ex. Gaz.]

(2) It shall come into force at once.

2. **Amendment of section 5, Act XV of 1975.**—In the Suppression of Terrorist Activities (Special Courts) Act, 1975 (XV of 1975), in section 5, in sub-section (7), the word "summons" shall be omitted.

FAZAL ELAHI CHAUDHRY,
President.

Countersigned.

ZULFIKAR ALI BHUTTO,
Prime Minister.

ABDUL HAYEE KURESHI,
Secretary.

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PART I

Acts, Ordinances, President's Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 28th July, 1976

No. F. 24 (1)|76-Pub.—The following Ordinance made by the President on the 27th July, 1976 is hereby published for general information :—

ORDINANCE No. XXIX OF 1976

AN

ORDINANCE

further to amend the Defence of Pakistan Ordinance, 1971

WHEREAS it is expedient further to amend the Defence of Pakistan Ordinance, 1971 (XXX of 1971), for the purposes hereinafter appearing ;

AND WHEREAS the Proclamation of Emergency referred to in Article 280 of the Constitution of the Islamic Republic of Pakistan is in force ;

AND WHEREAS the National Assembly is not in session and the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title, extent and commencement.**—(1) This Ordinance may be called the Defence of Pakistan (Third Amendment) Ordinance, 1976.

Price : Ps. 13

[2736 Ex. Gaz.]

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. **Amendment of section 10, Ordinance XXX of 1971.**—In the Defence of Pakistan Ordinance, 1971 (XXX of 1971), hereinafter referred to as the said Ordinance, in section 10, for sub-section (1) the following shall be substituted and shall be deemed always to have been so substituted, namely:—

> "(1) Notwithstanding the provisions of the Code, a Special Tribunal may take cognizance of an offence on a report in writing of the facts constituting such offence made by a public servant.".

3. **Substitution of section 13A, Ordinance XXX of 1971.**—In the said Ordinance, for section 13A the following shall be substituted, namely:—

> "13A. *Bar of jurisdiction.*—(1) Save as provided in section 13 and notwithstanding the provisions of the Code, or of any other law for the time being in force, or of anything having the force of law by whatever authority made or done, or any judgment of any Court, there shall be no appeal from any order of a Special Tribunal, and no Court shall have authority to revise any order or sentence of the Special Tribunal, or to transfer any case from a Special Tribunal, or to order the suspension of execution of sentence or release on bail or on own bond under section 426, 435, 439, 491, 497, 498 or 561-A of the Code or any other provision of law, of any person against whom a case exclusively triable by a Special Tribunal is registered at a police station, or who is being tried, or has been convicted, by a Special Tribunal, or have any jurisdiction of any kind in respect of any proceedings of a Special Tribunal.
>
> *Explanation.*—'Proceedings' includes all final or interim orders passed by the Special Tribunal in relation to a case exclusively triable by it, whether before or after the Special Tribunal has taken cognizance.
>
> (2) Notwithstanding the provisions of the Code or of any other law for the time being in force, or of anything having the force of law by whatever authority made or done, or any judgement of any Court, the provisions of sub-section (1) shall have effect, and shall be deemed always to have had effect, as if they formed part of this Ordinance on and from the twenty-third day of November, 1971.".

FAZAL ELAHI CHAUDHRY,
President.

Countersigned.
ZULFIKAR ALI BHUTTO,
Prime Minister.

ABDUL HAYEE KURESHI,
Secretary.

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PART I

Acts, Ordinances, President's Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 6th August, 1976

No. F. 24 (1)|76-Pub.—The following Ordinance made by the President on the 2nd August, 1976 is hereby published for general information :—

ORDINANCE No. XXX OF 1976

AN

ORDINANCE

to amend the Antiquities Act, 1975

WHEREAS it is expedient to amend the Antiquities Act, 1975 (VII of 1976), for the purpose hereinafter appearing ;

AND WHEREAS the National Assembly is not in session and the President is satisfied that circumstances exist which render it necessary to immediate action ;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title, extent and commencement.**—(1) This Ordinance may be called the Antiquities (Amendment) Ordinance, 1976.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

Price : Ps. 9

[2825 Ex. Gaz.]

2. **Amendment of section 15, Act VII of 1976.**—In the Antiquities Act, 1975 (VII of 1976), in section 15,—

(a) in sub-section (1), the commas and words " , after consultation with the Advisory Committee, " shall be omitted ; and

(b) in sub-section (2),—

(i) in clause (b), for the semi colon and word " ; or " a full stop shall be substituted ; and

(ii) clause (c) shall be omitted.

FAZAL ELAHI CHAUDHRY,
President.

Countersigned.

ZULFIKAR ALI BHUTTO,
Prime Minister.

ABDUL HAYEE KURESHI,
Secretary.

CORRIGENDA

[to the *Gazette of Pakistan, Extraordinary,* Part I, dated the 17th July, 1976, containing Ordinances Nos. XXIV to XXVII of 1976.]

Page 388 : In line 28, *for* " exerciseable " *read* " exercisable ".

Page 391 : In line 7 from the bottom, *for* " belonging " *read* " belonging, ".

Page 393 : In line 20, *for* " compesation " and " establishment " *read* " compensation " and " establishments ", respectively.

Page 394 : In the first line, *for* " **Definition** " *read* " **Definitions** ".

Page 396 : In line 30, *for* " section 5 " *read* " under section 5 ".

Page 397 : In line 11, *for* " **Tranfer**" *read* " **Transfer** ".

Page 398 : In line 20, *for* " exerciseable " *read* " exercisable ".

" " : In line 8 from the bottom, *for* " to be " *read* " to the ".

Page 399 : In line 5 from the bottom, *for* " he " *read* " the ".

Page 401 : In the third line from the bottom, *for* " with the " *read* " with an ".

Page 402 : In line 4, *for* " conected " *read* " connected ".

" " : In line 13 from the bottom, *for* " conmpensation " *read* " compensation ".

" " : In the last line, *for* " proceeding " *read* " preceding ".

Page 403 : In the first line, *for* " properietary " *read* " proprietary ".

Page 405 : In line 9 from the bottom, *for* " Gvern- " *read* " Govern- ".

Page 408 : In line 9, *for* " of having " *read* " or having ".

Page 409 : In line 24, *for* " Penalities " *read* " Penalties ".

Page 410 : In the third line, *for* " of the foregoing " *read* " of foregoing ".

Page 411 : Line 8 be read as :

" (a) in the case of the shares not quoted on any of the stock exchanges, ".

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PART I

Acts, Ordinances, President's Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 14th September, 1976

No. F. 24 (1)|76-Pub.—The following Ordinance made by the President on the 14th September, 1976 is hereby published for general information :—

ORDINANCE No. XXXI OF 1976

AN

ORDINANCE

further to amend the Pakistan Arms Ordinance, 1965

WHEREAS it is expedient further to amend the Pakistan Arms Ordinance, 1965 (W. P. Ordinance No. XX of 1965), for the purposes hereinafter appearing ;

AND WHEREAS the National Assembly is not in session and the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the Pakistan Arms (Second Amendment) Ordinance, 1976.

(2) It shall come into force at once.

2. **Insertion of new section 11B, W. P. Ordinance No. XX of 1965.**—In the Pakistan Arms Ordinance, 1965 (W. P. Ordinance No. XX of 1965), hereinafter

Price : Ps. 19

[3201 Ex. Gaz.]

referred to as the said Ordinance, after section 11A, the following new section shall be inserted, namely :—

"11B. *Prohibition of keeping, carrying or displaying arms.*—(1) The Federal Government may, and if so directed by the Federal Government the Provincial Government shall, by general or special order, prohibit the keeping, carrying or display of arms at such places or times or on such occasions as may be specified in the order.

(2) In particular, and without prejudice to the generality of sub-section (1), an order issued thereunder may prohibit—

(a) the keeping of arms within the premises of educational institutions and the premises of the hostels or boarding and lodging houses relating or affiliated thereto ; and

(b) the carrying or display of arms at fairs or in gatherings or processions of a political, religious, ceremonial or sectarian character or in the premises of courts of law or public offices.

(3) Any person keeping, carrying or displaying any arms in contravention of an order issued under sub-section (1) may be disarmed by any Magistrate, Police Officer or other person empowered by Government in this behalf.".

3. **Amendment of section 13, W. P. Ordinance No. XX of 1965.**—In the said Ordinance, in section 13,—

(a) in clause (g), the word "or" at the end shall be omitted ;

(b) in clause (h), after the semicolon at the end, the word "or" shall be added ; and

(c) after clause (h) amended as aforesaid, the following new clause shall be added, namely :—

"(i) keeps, carries or displays any arms in contravention of an order issued under section 11B ;".

4. **Amendment of section 14, W. P. Ordinance No. XX of 1965.**—In the said Ordinance, in section 14, for the proviso the following shall be substituted, namely :—

"Provided that the punishment for an offence committed in respect of any—

(a) cannon, grenade, bomb or rocket ; or

(b) light or heavy automatic weapon, rifle of .303 bore or over, musket of .410 bore or over or pistol or revolver of .441 bore or over, or ammunition which can be fired from such weapon, rifle, musket, pistol or revolver,

shall be imprisonment for a term which is not less than two years.".

5. **Amendment of section 16, W. P. Ordinance No. XX of 1965.**—In the said Ordinance, in section 16, for the proviso the following shall be substituted, namely :—

"Provided that the punishment for an offence committed in respect of any—

(a) cannon, grenade, bomb or rocket ; or

(b) light or heavy automatic weapon, rifle of .303 bore or over, musket of .410 bore or over or pistol or revolver of .441 bore or over, or ammunition which can be fired from such weapon, rifle, musket, pistol or revolver,

shall be imprisonment for a term which is not less than one year.".

FAZAL ELAHI CHAUDHRY,
President.

Countersigned.

ZULFIKAR ALI BHUTTO,
Prime Minister.

MIR MOHAMMAD ALI,
Draftsman and Ex-Officio *Additional Secretary.*

NATIONAL ASSEMBLY SECRETARIAT

CORRIGENDA

[to the Gazette of Pakistan, Extraordinary, (Part I), dated the 29th June, 19th July and 21st August, 1976, containing Act Nos. XLVI, XLVIII, XLIX and LIII of 1976].

Page No. 363—In Clause 1, first line *for* the word "titlte" *read* "title".

" " 364—3rd line from bottom *for* "end" *read* "end,".

" " 417—18th line from top *delete* the word "a" occurring for the second time.

" " 450—3rd line from top *for* "deflamation" *read* "defamation".

[No. F. 10 (2)/76-Ptg.]

INAYAT ALI,
Assistant Secretary.

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PART I

Acts, Ordinances, President's Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 25th September, 1976

No. 24 (1)|76-Pub.—The following Ordinance made by the President on the 19th September, 1976 is hereby published for general information :—

ORDINANCE No. XXXV OF 1976

AN

ORDINANCE

further to amend the Land Reforms Regulation, 1972

WHEREAS it is expedient further to amend the Land Reforms Regulation, 1972, for the purpose hereinafter appearing ;

AND WHEREAS the Proclamation of Emergency referred to in Article 280 of the Constitution of the Islamic Republic of Pakistan is in force ;

AND WHEREAS the National Assembly is not in session and the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the Land Reforms (Second Amendment) Ordinance, 1976.

(2) It shall come into force at once.

2. **Amendment of paragraph 29 of the Land Reforms Regulation, 1972.**—In the said Regulation, in paragraph 29, in the third proviso, in clause (a), for the figures, letters, words and comma " 30th day of September, 1976 " the figures, letters, words and comma " 30th day of November, 1976 " shall be substituted.

FAZAL ELAHI CHAUDHRY,
President.

Countersigned

ZULFIKAR ALI BHUTTO,
Prime Minister.

ABDUL HAYEE KURESHI,
Secretary.

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[3312 Ex. Gaz.]

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PART I

Acts, Ordinances, President's Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 14th October, 1976

No. F. 24 (I)|76-Pub.—The following Ordinance made by the President on the 9th October, 1976 is hereby published for general information :—

ORDINANCE No. XXXVI OF 1976

AN

ORDINANCE

to amend the Flour Milling Control and Development Act, 1976

WHEREAS, it is expedient to amend the Flour Milling Control and Development Act, 1976 (LVII of 1976), for the purpose hereinafter appearing ;

AND WHEREAS the National Assembly is not in session and the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the Flour Milling Control and Development (Amendment) Ordinance, 1976.

(2) It shall come into force at once.

Price : Ps. 19

[3451|Ex. Gaz.]

2. **Amendment of section 3, Act LVII of 1976.**—In the Flour Milling Control and Development Act, 1976 (LVII of 1976) in section 3, in the proviso, after the word "establishment", the words "or which are run for the benefit of any class of persons or for charitable objects" shall be inserted.

FAZAL ELAHI CHAUDHRY,
President.

Countersigned.

ZULFIKAR ALI BHUTTO,
Prime Minister.

No. F. 24 (1)|76-Pub.—The following Ordinance made by the President on the 9th October, 1976 is hereby published for general information :—

ORDINANCE No. XXXVII OF 1976

AN

ORDINANCE

to amend the Rice Milling Control and Development Act, 1976

WHEREAS, it is expedient to amend the Rice Milling Control and Development Act, 1976 (LVIII of 1976), for the purpose hereinafter appearing ;

AND WHEREAS the National Assembly is not in session and the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the Rice Milling Control and Development (Amendment) Ordinance, 1976.

(2) It shall come into force at once.

2. **Amendment of section 3, Act LVIII of 1976.**—In the Rice Milling Control and Development Act, 1976 (LVIII of 1976), in section 3, in the proviso, after the word "huller", the words "or rice mills which are run for the benefit of any class of persons or for charitable objects" shall be inserted.

FAZAL ELAHI CHAUDHRY,
President.

Countersigned.

ZULFIKAR ALI BHUTTO,
Prime Minister.

No. F. 24 (1)|76-Pub.—The following Ordinance made by the President on the 9th October, 1976, is hereby published for general information :—

ORDINANCE No. XXXVIII OF 1976

AN

ORDINANCE

to amend the Cotton Ginning Control and Development Act, 1976

WHEREAS, it is expedient to amend the Cotton Ginning Control and Development Act, 1976 (LIX of 1976), for the purpose hereinafter appearing ;

AND WHEREAS the National Assembly is not in session and the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the Cotton Ginning Control and Development (Amendment) Ordinance, 1976.

(2) It shall come into force at once.

2. **Amendment of section 3, Act LIX of 1976.**—In the Cotton Ginning Control and Development Act, 1976 (LIX of 1976), in section 3, for the full stop at the end a colon shall be substituted and thereafter the following proviso shall be added, namely :—

> "Provided that the Federal Government may, by notification in the official Gazette, exempt any establishment which is run for the benefit of any class of persons or for charitable objects from the operation of the provisions of this section from such date not preceding the date of commencement this Act as may be specified in the notification.".

FAZAL ELAHI CHAUDHRY,
President.

Countersigned.

ZULFIKAR ALI BHUTTO,
Prime Minister.

ABDUL HAYEE KURESHI,
Secretary.

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PART I

Acts, Ordinances, President's Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 15th October, 1976

No. F. 24 (1)|76-Pub.—The following Ordinance made by the President on the 12th October, 1976 is hereby published for general information :—

ORDINANCE No. XXXIX OF 1976

AN

ORDINANCE

to provide measures for controlling and regulating the standards of service and amenities for tourists in hotels and restaurants

WHEREAS it is expedient to provide measures for controlling and regulating the standards of service and amenities for tourists in hotels and restaurants and for matters ancillary thereto or connected therewith ;

AND WHEREAS the Provincial Assemblies of the Punjab, Sind and North-West Frontier Province, and Parliament, exercising the powers of the Provincial Assembly of Baluchistan under Article 234 of the Constitution of the Islamic Republic of Pakistan, have passed resolutions under Article 144 of the Constitution to the effect that Parliament may by law regulate the standards of service and amenities for tourists in hotels and restaurants ;

AND WHEREAS the National Assembly is not in session and the President is satisfied that circumstances exist which render it necessary to take immediate action ;

Price : Ps. 37

[3453 Ex. Gaz.]

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title, extent, application and commencement.**—(1) This Ordinance may be called the Pakistan Hotels and Restaurants Ordinance, 1976.

(2) It extends to the whole of Pakistan.

(3) It shall apply to all the hotels and restaurants in Pakistan.

(4) It shall come into force at once.

2. **Definitions.**—In this Ordinance, unless there is anything repugnant in the subject or context,—

(a) " apprentice " means any person who has contracted with a hotel or a restaurant to perform the stipulated apprenticeship in such hotel or restaurant ;

(b) " Committee " means the committee set up by the Federal Government under section 4 ;

(c) " Controller " means a Controller appointed under section 3 and includes a Deputy Controller and an Assistant Controller ;

(d) " customer " means a person availing facilities offered in a restaurant on monetary consideration ;

(e) " fair rates " means the rates fixed under section 10 and includes revised rates ;

(f) " guest " means a person who is in possession or enjoyment of accommodation provided to him in a hotel on monetary consideration ;

(g) " hotel " means a lodging, or boarding and lodging, establishment with a minimum of ten lettable bed rooms, provided for tourists on monetary consideration, which conforms to any of the prescribed minimum criteria, but does not include—

  (i) a home or hostel which is exclusively or mainly used for the aged or invalid persons or students and is run by or under the control of a charitable or educational institution ; or

  (ii) any hotel, rest house, hostel or circuit house exclusively meant for visiting Government officials or officials of other organisations, though run on a commercial basis ;

(h) " manager " means the person incharge of the management of a hotel or a restaurant ;

(i) " owner " means the person who holds title to a hotel or restaurant and is entitled to receive the whole or any part of the earnings received from a guest or customer on account of accommodation or services provided in the hotel or restaurant, and includes a keeper or assignee for the time being discharging the responsibility of the owner in respect of such hotel or restaurant ;

(j) " prescribed " means prescribed by rules made under this Ordinance ;

(k) " public rooms " means rooms in a hotel which are meant for the common use of all guests ;

(l) "restaurant" means a public eating house providing standard and variety of cuisines on monetary consideration to tourists which conforms to the minimum prescribed criteria ;

(m) "service" means any service provided in a hotel or a restaurant ; and

(n) "tourist" means a person, whether a citizen of Pakistan or not, who stays over-night or more as a guest in a hotel at a place other than his normal place of residence.

3. **Appointment of Controller, Deputy Controllers and Assistant Controllers.**—(1) The Federal Government may, by notification in the official Gazette, appoint a person to be the Controller for the purposes of this Ordinance and such number of Deputy Controllers and Assistant Controllers as may be necessary for the performance and discharge of such functions and duties as may be assigned to them by or under this Ordinance and may, by general or special order, provide for the distribution or allocation of work to be performed by them.

(2) Subject to the provisions of this Ordinance, the Controller shall perform his functions and discharge his duties under the general supervision and control of the Federal Government.

(3) Subject to the provisions of this Ordinance and of such orders as may from time to time be made by the Federal Government in this behalf, the Deputy Controllers and Assistant Controllers shall perform their functions and discharge their duties under the general supervision and control of the Controller.

4. **Setting up of Advisory Committee.**—As soon as may be after the commencement of this Ordinance, the Federal Government may set up a Hotels and Restaurants Committee, consisting of as many members as the Federal Government may determine, to aid and advise the Federal Government in relation to such matters relating to the administration of this Ordinance as may be prescribed.

5. **Registration of hotels and restaurants.**—(1) The owner of every hotel and restaurant shall, within a period of two months from the commencement of this Ordinance, or from the opening of the hotel or restaurant, or from the date on which this Ordinance becomes applicable to such hotel or restaurant, whichever is later, apply to the Controller for registration of his hotel or restaurant and for determination of fair rates in relation thereto and, in the case of a hotel, also for its classification, on payment of such fee as may be prescribed.

(2) No hotel or restaurant shall be registered, unless—

(a) it conforms to the prescribed standard of health, hygiene and comfort, provided that the Controller may allow provisional registration subject to such conditions as he may deem fit and, for good and sufficient reasons, modify, alter or withdraw any such condition at any time ;

(b) it furnishes at its expense certificates of medical fitness from a Medical Officer of the civil hospital of the area in respect of its staff in such form as may be prescribed ;

(c) its building is structurally safe and adequately protected against fire or an accident arising out of electricity or gas and safety of the tourists is ensured.

(3) The Controller, or an officer authorised by him in this behalf, or a member of the Committee may, at any time, inspect the premises of a hotel or

restaurant, call for any information, plan or data in respect of any matter concerning such hotel or restaurant or, at the cost of the owner, carry out, or require the owner to carry out, test of any articles or appliances or foodstuff.

6. **Classification of hotels.**—Subject to such general or particular directions as the Federal Government may issue, the Controller shall, according to the prescribed minimum criteria, by notification in the official Gazette, classify hotels, according to the star classification system, as—

(a) one star hotels, being hotels which conform to the prescribed minimum criteria of hotels of that class, but do not conform to the prescribed minimum criteria of a higher star class hotel ;

(b) two star hotels, being hotels which conform to the prescribed minimum criteria of hotels of that class, but do not conform to the prescribed minimum criteria of a higher star class hotel ;

(c) three star hotels, being hotels which conform to the prescribed minimum criteria of hotels of that class, but do not conform to the prescribed minimum criteria of a higher star class hotel ;

(d) four star hotels, being hotels which conform to the prescribed minimum criteria of hotels of that class, but do not conform to the prescribed minimum criteria of a higher star class hotel ; and

(e) five star hotels, being hotels which conform to the prescribed minimum criteria of hotels of that class.

7. **Issue of licence.**—(1) Every owner shall, after registration of his hotel or restaurant under section 5, obtain a licence from the Controller on payment of such fee as may be prescribed.

(2) No owner shall carry on his business or, in the case of a hotel, use the classification star sign, without first getting the hotel or restaurant registered and obtaining a licence under this Ordinance.

(3) A licence granted under this section shall, unless sooner suspended or cancelled, remain in force for a period of one year from the date of issue and may thereafter be renewed for a period of one year at a time on payment of the prescribed fee :

Provided that if an application for renewal of a licence is made before the expiry of the period of its validity, the licence shall continue in force until orders are passed on such application.

8. **Refusal and cancellation of registration and licence.**—(1) The Controller may refuse to register a hotel or restaurant if it does not conform to the minimum prescribed criteria.

(2) The registration and licence of a hotel or restaurant may be cancelled or suspended, or the star classification of a hotel may be lowered, if—

(a) its owner is declared insolvent by a competent court ;

(b) its business is wholly or partly discontinued or suspended without the approval of the Controller, except where such suspension or discontinuance is for the purposes of making repairs, improvements, renovations or expansion or, in the case of seasonal business, is for the period of the slack season, and the fact of such suspension or discontinuance in each case has been duly reported to the Controller in advance ;

(c) its owner or any person acting on his behalf contravenes any of the provisions of this Ordinance or the rules or orders made thereunder ;

(d) it ceases to conform to the requirements of registration under section 5 or, in the case of a hotel, to the prescribed minimum criteria for the class assigned to it ; or

(e) its owner fails to enter the names and other particulars of guests in the prescribed register.

9. **Obligation of the transferee, etc., of a hotel and restaurant.**—Where a hotel or restaurant registered and licensed under this Ordinance is transferrd or assigned to, or devolves upon, any person, it shall be incumbent upon that person to report, within one month of its taking effect, to the Controller the fact of such transfer, assignment or devolution and obtain a fresh licence under this Ordinance.

10. **Controller to fix fair rates.**—(1) The Controller may fix fair rates to be charged for board, lodging and other service provided in a hotel at such amount as, having regard to the prescribed principles governing fair rates and the classification of hotels, he deems just.

(2) The Controller may either fix a consolidated rate for lodging, board and service, or for lodging and service only or fair rates separately for—

(a) lodging with reference to the nature of the accommodation and the number of guests to be accommodated ;

(b) board, partial or full ; and

(c) other service.

(3) Fair rates may be fixed separately for daily and monthly guests.

Explantion.—A guest who agrees to reserve accommodation, or for whom accommodation is reserved, for a period of one month or more shall be deemed to be a monthly guest, provided he actually stays for one month or more or has actually paid in advance for one month ; and where the reservation is not for any specified period or is for a period less than a month, the guest shall be deemed to be a daily guest.

(4) The Controller may fix fair rates to be charged for board and other service provided in a restaurant at such amount, as, having regard to the prescribed principles governing fair rates and to all the circumstances, he deems just.

(5) The Controller may from time to time revise the fair rates fixed by him under this section.

(6) An order fixing or revising fair rates shall take effect on the first day of such month following the month in which the order is made as may be specified therein.

(7) Until such time as fair rates are fixed in relation to any hotel or restaurant under this section, the rate, if any, charged by such hotel or restaurant, immediately before this Ordinance becomes applicable to it, for equivalent lodging, board or service to that provided, shall be deemed to be the fair rates fixed under this section.

11. **Controller to fix limit of persons to be accommodated in any room.**—(1) The Controller may fix the maximum number of guests to be accommodated in each room or other unit of accommodation in a hotel.

(2) No room for which an order has been made under sub-section (1) shall be used to accommodate any number of guests in excess of the number specified in the order, except with the previous permission of the Controller in writing.

(3) The Controller may from time to time revise any order made by him under sub-section (1) so as to increase or reduce the number of guests specified in such order.

12. **Rules of establishment of hotel and restaurant.**—Every owner shall prepare the rules of the establishment in respect of his hotel or restaurant conforming with the provisions of this Ordinance and the rules made thereunder and get them approved by the Controller.

13. **Fair rates, etc., to be displayed.**—(1) The fair rates, the maximum number of guests that may be accommodated in a room or unit of accommodation in a hotel and the rules of the establishment shall be displayed in a conspicuous manner in the office and in the public rooms, if any, of every hotel.

(2) The fair rates and the rules of the establishment shall be displayed in a conspicuous manner in the office and the hall and rooms of every restaurant.

14. **Reservation of accommodation at the instance of Controller.**—(1) Subject to such directions as may be given in this behalf by the Federal Government, the Controller may by order direct the owner or the manager of a hotel to reserve in the hotel such accommodation as may be specified in the order.

(2) Subject to any direction by the Federal Government in this behalf, the Controller may allot the accommodation reserved under sub-section (1) to any person and such person shall thereupon be deemed to be a guest at the hotel in relation to the accommodation allotted to him.

(3) Where any accommodation is reserved under sub-section (1), the owner or the manager of the hotel shall make the accommodation so reserved, or such portion of it as the Controller may direct, available to the Controller for occupation by the person to whom it has been allotted, at the expiry of twenty-four hours from the service upon him of a notice in writing in this behalf by the Controller.

(4) Nothing in this section shall prevent the owner or the manager of the hotel from letting any accommodation reserved under sub-section (1) to a guest other than the person to whom such accommodation is allotted by the Controller, upon the condition that if and when a notice is received from the Controller under sub-section (3) such guest will vacate the accommodation within twenty-four hours of the receipt of such notice.

15. **Charge in excess of fair rates prohibited.**—(1) Notwithstanding any agreement to the contrary, no owner shall charge a guest or customer any amount in excess of the fair rates.

(2) Any agreement for the payment of any charges in excess of the fair rates shall be void in respect of such excess, and shall be construed as if it were an agreement for payment of the fair rates.

(3) Any sum paid by a guest in excess of the fair rates shall be recoverable at any time within a period of six months from the date of payment from the owner or the manager of the hotel to whom it was paid, or from the legal representative of either of these persons, and without prejudice to any other mode of recovery which may be open to him, the guest may deduct such amount from any sum payable by him for his accommodation.

16. **Controller's power to prohibit Certain trades and occupations.**—The Controller may, by order in writing, prohibit, within one hundred yards of a hotel or restaurant, the carrying on of any trade, profession, occupation or industry which in his opinion is likely to be—

(i) injurious to the health and well being of guests or customers or a hazard to their safety;

(ii) a nuisance as defined in the Pakistan Penal Code (Act XLV of 1860); or

(iii) offensive to good taste.

17. **Eviction of guests.**—(1) Except as hereinafter provided, no guest at a hotel shall be evicted or refused board or other service so long as he pays, or is ready and willing to pay, the fair rates and observes the displayed rules of the establishment and conforms with the provisions of this Ordinance and the conditions prescribed thereunder.

(2) A guest or a customer who has been guilty of conduct which amounts to nuisance, or is a source of annoyance to other guests or customers, or threatens or intimidates any other guest or customer, or is likely to endanger the person or life of any individual in a hotel or restaurant, may be evicted by the owner or manager of the hotel or restaurant, provided that, if the owner or manager has good reason to apprehend an immediate breach of peace or commission of an offence by the guest or customer, he may use such force as may be necessary to restrain the guest or customer from so doing and shall immediately intimate the fact to the local police.

(3) Any guest or customer aggrieved by eviction or refusal of board or other services under sub-section (1) or sub-section (2) may lodge a complaint with the Controller who shall, after holding summary enquiry in the prescribed manner, pass such order as he may deem fit.

18. **Procedure and powers of Controller.**—(1) The Controller shall not refuse registration, or cancel or suspend the licence, of a hotel or restaurant, except after holding summary enquiry in the prescribed manner.

(2) For the purpose of holding an enquiry under sub-section (1) or any other enquiry which he may deem necessary for the purposes of this Ordinance, the Controller shall have the same powers as are vested in a civil court in respect of—

(a) proof of facts by affidavit;

(b) summoning and enforcing the attendance of any person and examining him on oath;

(c) compelling the production of documents and other material evidence; and

(d) issuing commissions for the examination of witnesses.

19. **Additional powers of Controller.**—For the purposes of this Ordinance, the Controller may—

(i) call for such information, reports, or returns from an owner or a manager as may be necessary for satisfying himself that the provisions of this Ordinance, the rules and orders made thereunder are being duly complied with;

(ii) require an owner or a manager to produce before himself or an officer designated by him for the purpose any book of account, document or other papers in his possession or power which contain or are believed to contain information relating to the hotel or restaurant of which he is the owner or manager;

(iii) require an owner or a manager to undertake through an agency qualified to do so scientific tests of water, food and other articles of human consumption at the cost of the owner, to determine their quality and conformity with the requirements of health and hygiene;

(iv) declare the site of any restaurant not registered under this Ordinance a fit site for a restaurant and issue directive to the management of such a restaurant to improve, within a period of six months from the date of such order, the conditions, services and facilities at the restaurant to conform to the prescribed minimum criteria;

(v) call for any other information relating to development of hotel industry.

20. **Apprenticeship scheme and training policy of employees.**—The Controller shall—

(i) ensure that apprentices in a hotel or restaurant do not exceed ten per cent of the employees in any specified trade;

(ii) fix, with due regard to the salaries of the regularly employed staff, the stipend to be paid to an apprentice over and above the cost of his training and determine the duration of his apprenticeship;

(iii) lay down the age limit, educational qualifications, standards of physical fitness and psychological and mental health of apprentices;

(iv) direct the programming for training various categories of employees of hotels and restaurants at a recognised vocational institution at the various specialised courses run thereat so that the percentage of qualified trained staff in a hotel or restaurant attains, within a reasonable time, the minimum standard as may be determined by the Controller; and

(v) lay down the maximum percentage of untrained staff that may be employed at a hotel or restaurant at any time.

21. **Provision of medical facilities.**—(1) The owner of every hotel registered and licenced under this Ordinance shall provide the following medical facilities for guests, namely:—

(i) One and two star hotels;

(a) A doctor on call available in close proximity of the hotel premises.

(b) First aid equipment and a reasonable stock of life saving drugs.

  (c) Two employees trained and qualified in first aid.
  (d) Ensure availability of an ambulance, van or car to rush patients to a hospital in emergencies.

(ii) Three star hotels :
  (a) As in sub-clauses (a) to (c) in clause (i).
  (b) A drug store or chemist's shop with twenty-four hours' service, if not existing in close proximity.
  (c) An ambulance or van.

(iii) Four and five star hotels :
  (a) A doctor on call available in close proximity of the hotel premises.
  (b) A separate consulting room with reasonable stock of life saving drugs and first aid equipment.
  (c) Four employees trained and qualified in first aid.
  (d) An ambulance or a van convertible into an ambulance in emergency.
  (e) A drug or chemist's shop with twenty-four hours' service, if not existing in close proximity.

(2) The management of a hotel shall take all possible care and provide all necessary medical aid without any loss of time to a guest suffering from any serious attack, including heart attack and haemorrhage, or an accident.

22. **Officers and Penalties.**—(1) Any owner who fails to apply for registration within the time specified in section 5 shall be liable to pay to the Controller a penalty of such sum not exceeding five thousand rupees as the Controller may impose and, in the case of a continuing failure, an additional penalty which may extend to one thousand rupees for every day after the first during which he has persisted in the failure.

(2) Any owner or manager who serves any food or beverage which is injurious to health, or who does not take sufficient care to ensure protection of food and beverage against contamination through flies of in any other way, or serves any food or beverage in unclean or contaminated utensils, shall be liable to pay to the Controller a penalty of such sum not exceeding one thousand rupees as the Controller may impose.

(3) Any owner or manager who fails to comply with any order passed or direction given, under the provisions of this Ordinance by the Controller or any other authority prescribed in this behalf shall be liable to pay to the Controller a penalty of such sum not exceeding one thousand rupees as the Controller may impose.

(4) If a restaurant not registered under this Ordinance fails to carry out the directive issued under clause (iv) of section 19 within the period specified therein, the Controller may suspend the operation of such restaurant and may also impose a penalty of such sum not exceeding five thousand rupees as the Controller may impose on the owner of such restaurant.

(5) If the owner or manager of a hotel or restaurant not licensed under this Ordinance advertises it as a hotel or restaurant, or in any manner whatsoever uses

the star sign, he shall be liable to pay to the Controller a penalty of such sum not exceeding one thousand rupees as the Controller may impose and, in the case of his continuing to so advertise or use the star sign, an additional penalty which may extend to two hundred rupees for every day after the first during which he so continues or uses star sign.

(6) Any owner who fails to comply with the provisions of section 21 shall be liable to one or more of the following penalties, namely :—

(a) penalty of such sum not exceeding two thousand rupees as the Controller may impose ;

(b) forfeiture of licence; and

(c) cancellation of registration.

23. **Contravention by companies, etc.**—If the person contravening, or failing to comply with, any provision of this Ordinance or any rule, order or direction made or issued thereunder is a company or other body corporate, every director, secretary or other officer or agent thereof, unless he proves that the contravention or failure took place without his knowledge or that he exercised due diligence to prevent its taking place, shall be liable to the penalty provided for such contravention or failure.

24. **Mode of recovery.**—Any sum imposed as penalty under this Ordinance shall be recoverable as an arrear of land revenue.

25. **Appeals.**—Any person aggrieved by an order under this Ordinance may, within thirty days of the date of the order, prefer an appeal to—

(a) the Deputy Controller, where such order has been passed by an Assistant Controller ;

(b) the Controller, where such order, not being an order passed in appeal under clause (a), has been passed by a Deputy Controller ;

(c) the prescribed appellate authority, where such order, not being an order passed in apeal under clause (b), has been passed by the Controller.

26. **Indemnity.**—No suit, prosecution or other legal proceeding shall lie against the Federal Government, the Controller, a Deputy Controller, an Assistant Controller, the Provincial Government, any officer or authority subordinate to the Federal Government or a Provincial Government, or a member of the Committee in respect of anything which is in good faith done or intended to be done under this Ordinance.

27. **Power to exempt.**—The Federal Government may, by notification in the official Gazette, exempt any hotel or restaurant from the operation of all or any of the provisions of this Ordinance for such period, and on such conditions, if any, as may be specified in the notification.

28. **Delegation of powers.**—(1) The Federal Government may, by notification in the official Gazette, direct that all or any of its powers under this Ordinance shall, subject to such conditions, if any, as may be specified in the notification, be exercised—

(a) by any officer or authority subordinate to the Federal Government ; or

(b) by any Provincial Government or by any officer or authority subordinate to such Government.

(2) A Provincial Government may, with the approval of the Federal Government, constitute a Hotels and Restaurants Committee to perform, within the Province, all or any of the functions of the Committee.

29. **Power to make rules.**—(1) The Federal Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Ordinance.

(2) In particular and without prejudice to the generality to the foregoing power, such rules may provide for—

(a) fixation and revision of criteria for the registration and classification of hotels and restaurants ;

(b) lowering or altering the classification of a hotel, if in the opinion of the Controller it fails to maintain the prescribed standard of classification already assigned ;

(c) the manner of issuance of "Sign Shields" including star classification of hotels and restaurants for display in hotels and restaurants at conspicuous places ;

(d) principles governing fair rates ;

(e) determining the format, content and display of fair rates for hotels and restaurants ;

(f) matters in relation to which the Committee may render aid and advice ;

(g) meetings of the Committee ;

(h) fixation of fees for registration and licences ;

(i) form of a certificate of medical fitness referred to in section 5 and the time at which it shall be submitted to the Controller ;

(j) manner of holding summary enquiry ; and

(k) any other matter which is to be or may be prescribed.

30. **Other laws not applicable.**—Nothing contained in the Sarais Act, 1867 (XXII of 1867), or the Karachi Hotels and Lodging-Houses (Control) Act, 1950 (LXV of 1950), shall apply to a hotel or restaurant to which this Ordinance for the time being applies.

FAZAL ELAHI CHAUDHRY,
President.

Countersigned.

ZULFIKAR ALI BHUTTO,
Prime Minister.

ABDUL HAYEE KURESHI,
Secretary.

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PART I

Acts, Ordinances, President's Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 16th October, 1976

No. F. 24 (1)/76-Pub.—The following Ordinance made by the President on the 9th October, 1976 is hereby published for general information :—

ORDINANCE No. XL OF 1976

AN

ORDINANCE

To provide for the establishment of a Federal Bank for Cooperatives and regulation of Cooperative Banking

WHEREAS it is expedient to provide for the establishment of a Federal Bank for Cooperatives and Regulation of Cooperative Banking, and for matters ancilliary thereto ;

AND WHEREAS the Provincial Assemblies of the North-West Frontier Province, the Punjab and Sind and Parliament, exercising the powers of the Provincial Assembly of Baluchistan under Article 234 of the Constitution of the Islamic Republic of Pakistan, have passed resolutions under Article 144 of the Constitution to the effect that Parliament may by law regulate the matter of cooperative banking ;

AND WHEREAS the National Assembly is not in session and the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in exercise of the powers conferred by clause (i) of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President is pleased to make and promulgate the following Ordinance :—

Price : Ps. 62

[3464 Ex. Gaz.]

1. **Short title, extent and commencement.**—(1) This Ordinance may be called the Establishment of the Federal Bank for Cooperatives and Regulation of Cooperative Banking Ordinance, 1976.

(2) It extends to the whole of Pakistan and also applies to the business of the Bank transacted outside Pakistan and to persons conducting such business.

(3) It shall come into force at once.

2. **Definition.**—In this Ordinance, unless there is anything repugnant in the subject or context,—

(a) " approved securities " means securities in which a trustee may invest money under clause (a), clause (b), clause (bb), clause (c) or clause (d) of section 20 of the Trust Act, 1882 (II of 1882), and such other securities as the Federal Government may, by notification in the official Gazette, declare to be approved securities for purposes of this Ordinance ;

(b) " Bank " means the Federal Bank for Cooperatives established under section 5 ;

(c) " Board " means the Board of Directors constituted under section 9 ;

(d) " Chairman " means the Chairman of the Board ;

(e) " cooperative bank " means a 'banking society' as defined in the Explanation to sub-section (2) of section 7 of the Cooperative Societies Act, 1925 (VII of 1925), other than a Provincial Cooperative Bank ;

(f) " cooperative society " means a society registered in Pakistan under any law for the time being in force relating to registration of cooperative societies and a " primary cooperative society " means such a society of which no other society is a member ;

(g) " borrower " means a person who has obtained a loan from the Bank or a Provincial Cooperative Bank and includes a surety or an indemnifier, but does not include the Federal Government or a Provincial Government ;

(h) " demand liabilities " means liabilities which are to be met on demand and " time liabilities " means liabilities which are not demand liabilities ;

(i) " Director " means a Director for the time being of the Board ;

(j) " District Judge " includes, in respect of areas where a District Judge does not have unlimited pecuniary jurisdiction in original civil suits, a High Court exercising original civil jurisdiction ;

(k) " family members " in relation to a person means his spouse, dependent lineal ascendents and descendents and dependent brothers and sisters ;

(l) " loan " includes an advance, a cash credit, an overdraft, a packing credit, a bill discounted and purchased, letter of credit or any other financial accommodation or engagement provided by the Bank or a Provincial Cooperative Bank to a borrower ;

(m) "Managing Director" means Managing Director of the Bank and includes any person for the time being discharging the functions of the Managing Director ;

(n) "multi-unit cooperative society" means a cooperative society to which the Multi-Unit Cooperative Societies Act, 1942 (VI of 1942), applies and which—

  (i) is not a banking society as defined in the Explanation to sub-section (2) of section 7 of the Cooperative Societies Act, 1925 (VII of 1925) ; and

  (ii) does not use as a part of its name the word "Bank" or "Banking" or any of its derivatives ;

(o) "prescribed" means prescribed by rules ;

(p) "Provincial Cooperative Bank" means a cooperative society the primary object of which is to make loans to the cooperative societies which are its members and which is notified, for the purposes of this Ordinance, to the Bank by the Provincial Government of the Province within which the cooperative society is registered or, until a cooperative society is so notified, any one of the following, namely :—

  (i) the Baluchistan Provincial Cooperative Bank Ltd ;

  (ii) the Frontier Provincial Cooperative Bank Ltd ;

  (iii) the Punjab Provincial Cooperative Bank Ltd ; and

  (iv) the Sind Provincial Cooperative Bank Ltd ;

(q) "regulation" means a regulation made under this Ordinance ;

(r) "rule" means a rule made under this Ordinance;

(s) "scheduled bank" has the same meaning as in the State Bank of Pakistan Act, 1956, (XXXIII of 1956) ;

(t) "State Bank" means the State Bank of Pakistan established under the State Bank of Pakistan Act, 1956 (XXXIII of 1956).

3. **Ordinance to over-ride other laws.**—(1) Except as provided in sub-section (2), this Ordinance shall have effect notwithstanding anything contained in the Banks (Notionalization) Act, 1974 (XIX of 1974), or any other law, excepting the State Bank of Pakistan Act, 1956 (XXXIII of 1956), and the Banking Companies Ordinance, 1962 (LVII of 1962), as amended by this Ordinance, for the time being in force or any instrument having effect by virtue of any law or any agreement, contract, award or memorandum or articles of association or other instrument.

(2) Nothing in—

  (a) section 36 of the State Bank of Pakistan Act, 1956 (XXXIII of 1956), shall apply to the Chairman or a Director, other than the Managing Director ;

  (b) clause (iv) of sub-section (1) of section 14 of the Banking Companies Ordinance, 1962 (LVII of 1962), shall apply to shares of the Bank held by the State Bank ;

(c) section 27, section 28, clause (b) of sub-section (6) of section 40, clause (c) of sub-section (1) of section 42, Parts III and IV, or section 89 of the Banking Companies Ordinance, 1962 (LVII of 1962), shall apply to the Bank ;

(d) clause (c) of sub-section (1), or sub-sections (2), (3), (4) and (5 of section 11, sub-section (3) of section 14, sections 15, 15-A, 15-B, 15-C or 20, sub-section (3) or (6) of section 25, sub-section (4) or (5) of section 40, or section 41-A, 41-B, 41-C, or 83 of the Banking Companies Ordinance, 1962 (LVII of 1962), shall apply to the Chairman or a Director other than the Managing Director.

4. **Power to exempt, and suspend operation of Ordinance, in certain cases.**—The Federal Government may, by notification in the official Gazette, and subject to such conditions as may be specified in the notification, exempt the Bank from, or suspend the application to the Bank of, all or any of the provisions of this Ordinance, either generally or for such period as may be so specified.

5. **Establishment of the Bank.**—(1) As soon as may be after the coming into force of this Ordinance, the Federal Government shall take steps to establish, in accordance with the provisions of this Ordinance, a corporation to be called "The Federal Bank for Cooperatives" to carry out the purposes of this Ordinance.

(2) The Bank shall be a body corporate having perpetual succession and a common seal, with powers to acquire, own, hold and dispose of any property, and shall by the name assigned to it by sub-section (1) sue and be sued.

(3) The Bank shall deemed to be a banking companies or the purposes of the State Bank of Pakistan Act, 1956 (XXXIII of 1956), the Banking Companies Ordinance, 1962 (LVII of 1962), and any other law for the time being in force relating to banking companies, excepting the Banks (Nationalization) Act, 1974 (XIX of 1974).

6. **Share capital.**—(1) The initial share capital of the Bank shall be twenty crores of rupees divided into two thousand fully paid up shares of the nominal value of one hundred thousand rupees each and shall be fully subscribed by the Federal Government, the Provincial Governments and the State Bank of Pakistan in the following manner :—

(a) Federal Government.	Rs. 2.00 crores
(b) State Bank.	Rs. 15.00 crores.
(c) Government of the Punjab.	Rs. 1.00 crores.
(d) Government of Sind.	Rs. 1.00 crores.
(e) Government of N.W.F.P.	Rs. 0.50 crores.
(f) Government of Baluchistan.	Rs. 0.50 crores.

(2) The share capital may be increased from time to time by a resolution of the Board with the approval of the Federal Government ; and the capital so increased shall be fully subscribed by the Federal Government, the Provincial Governments and the State Bank of Pakistan.

7. **Offices and branches.**—(1) The head office of the Bank shall be at Islamabad.

(2) The Bank shall establish one Regional Office in each Province and may establish Offices, Branches and Agencies at such places as the Board may think fit.

8. **Direction and superintendence.**—The general direction and superintendence of the affairs and business of the Bank shall vest in a Board of Directors constituted in accordance with section 9, which may exercise all such powers and do all such acts and things as may be exercised or done by the Bank, subject to the provisions of this Ordinance.

9. **Board.**—(1) The Board shall consist of—

(a) the Chairman ;

(b) all the directors for the time being of the Central Board of Directors of the State Bank ;

(c) the Managing Director ;

(d) two directors to be nominated by the Federal Government of whom one shall be an officer of the Ministry of the Government of Pakistan concerned with the subject of cooperatives and the other a non-official ; and

(e) two directors to be nominated by the Federal Government on the recommendation of each Provincial Government, of whom one shall be a non-official.

(2) The Governor for the time being of the State Bank shall be the Chairman of the Board.

(3) Unless the Federal Government otherwise directs in any case, a non-official Director referred to in clause (d) or clause (e) of sub-section (1) shall hold office for a period of three years and shall, subject to the provisions of this Ordinance be eligible for re-appointment :

Provided that such a Director shall not hold office for more than six consecutive years, and in computing the period of six years, any break of less than three years in continuity of office shall be disregarded.

(4) A Director referred to in clause (b) of sub-section (1) and an officer who is nominated Director under clause (d) or clause (e) of that sub-section, shall hold office during the pleasure of the Federal Government.

(5) No act or proceeding of the Board shall be invalid by reason only of the existence of any vacancy in, or defect in the constitution of, the Board.

10. **Managing Director.**—(1) The Managing Director shall be appointed by the Federal Government on such terms and conditions as the Federal Government may determine and shall hold office during the pleasure of the Federal Government.

(2) Subject to sub-section (1), the Managing Director may, by writing under his hand addressed to the Federal Government, resign his office.

(3) The Managing Director shall be the whole-time Chief executive of the Bank and shall perform such functions as are assigned to him by or under this Ordinance.

(4) If at any time the Managing Director is absent or is unable to perform his functions due to any cause, the Federal Government may authorise any other person qualified under section 11 to discharge for the time being the functions of the Managing Director on such terms and conditions as the Federal Government may think fit.

11. **Dis-qualifications of Managing Director and Directors.**—No person shall be or shall continue to be the Managing Director or a Director who—

(a) is or becomes a member of Parliament or a Provincial Assembly ; or

(b) is or at any time has been adjudicated an insolvent or suspends or has suspended payment or compounds or has compounded with his creditors ; or

(c) is a minor ; or

(d) is or is found to be a lunatic or becomes of unsound mind ; or

(e) is or has at any time been convicted for any offence which in the opinion of the Federal Government is an offence involving moral turpitude ; or

(f) was at any time in the service of the Federal Government or a Provincial Government or a Corporation or body owned or controlled by any such Government or in the service of any bank and was dismissed or disqualified for employment ; or

(g) is not a citizen of Pakistan or ceases to be a citizen of Pakistan ; or

(h) is a person against whom action has been taken or any proceedings are pending under section 235 of the Companies Act, 1913 (VII of 1913), or section 83 of the Banking Companies Ordinance, 1962 (LVII of 1962).

12. **Meeting of the Board.**—(1) Seven Directors shall form a quorum for a meeting of the Board.

(2) Subject to sub-section (1), the meetings of the Board shall be held in such a manner as may be prescribed :

Provided that until rules are made in this behalf, such meetings shall be convened by the Chairman.

(3) At the meetings of the Board, each Director shall have one vote and, in the event of equality of votes, the Chairman shall have a second or casting vote :

All meetings of the Board shall be presided at by the Chairman and, in his absence, by a Director chosen for the purpose by the Directors present from amongst their number.

13. **Fees for attending meeting.**—A non-official Director shall be paid such fees, travel costs and other expenses for attending the meetings of the Board as the Board may determine.

14. **Indemnity of Directors.**—(1) A Director shall not be personally responsible for the acts of any other Director or of any other officer or servant of the Bank or for any loss or expense resulting to the Bank by reason of insufficiency or deficiency in value of or title to any proprety or security acquired or taken on

behalf of the Bank, or by wrongful act of any person under a liability to the Bank, or for anything done by him in good faith in the discharge of his duties.

(2) Every Director shall be indemnified by the Bank against all losses and expenses reasonably incurred by him in the discharge of his duties except such as are caused by his wilful act or default.

15. **Advisory Committee.**—(1) The Bank may constitute an Advisory Committee consisting of—

(a) the Managing Director, who shall be the Chairman thereof ;

(b) one representative each of the Ministries of the Government of Pakistan concerned with the subjects of finance and cooperatives ;

(c) two representatives each of the Provincial Governments, of whom one shall be a non-official ;

(d) the chief executive of each of the Provincial Cooperative Banks ; and

(e) the Executive Director incharge of the Agricultural Credit Department in the State Bank.

(2) All meetings of the Advisory Committee shall be presided at by the Chairman thereof and, in his absence, by a Member chosen for the purpose by the Members present from amongst their number.

(3) The Advisory Committee shall advise the Bank on such matters as may be referred to it by the Board from time to time and may make recommendations on its own motion to identify areas of improvement in service, facilities to customers or co-operative societies, including measures for meeting regional credit requirements.

(4) The meetings of the Advisory Committee shall be convened by the Chairman thereof at such time and place as he may deem fit, and the non-official members of the Advisory Committee shall be paid such fees, travel cost and other expenses for attending the meetings as may be determined by the Board.

16. **Officers and Servants.**—(1) The Bank may appoint or employ such officers and servants as it considers necessary for the efficient performance of its functions on such terms and conditions as may be laid down by regulations :

Provided that, until regulations are made in this behalf, the conditions may be determined by the Board or by the Managing Director, to the extent he is authorised by the Board.

(2) The Managing Director and every officer and employee of the Bank shall be deemed to be a public servant within the meaning of section 21 of the Pakistan Penal Code (Act XLV of 1860).

(3) For the purpose of section 124 of the Evidence Act, 1872 (I of 1872). the provisions of part IV of the Code of Civil Procedure, 1908 (Act V of 1908), and the provisions of rule 27 of Order V, and rule 52 of Order XXI of the said Code, the Bank and any officer and employee of the Bank acting in his official capacity as such shall be deemed to be a public officer.

(4) The provisions of section 123 of the Evidence Act, 1872 (I of 1872), shall apply to the unpublished records relating to the affairs of the Bank and the Managing Director shall be deemed to be the officer or head of the department concerned.

17. **Business and Functions.**—(1) The Bank shall be the principal financing institution for meeting the credit needs of Provincial Cooperative Banks and multi-unit cooperative societies.

(2) The Bank may carry on, transact or do the several kinds of business and acts hereinafter specified, namely :—

(i) accept money on deposit ;

(ii) borrow funds from the Federal Government, financial institutions as defined in clause (f) of section 2 of the National Development Finance Corporation Act ; 1973 (XIII of 1973), and such other financing institutions in or outside Pakistan as are approved in this behalf by the Federal Government, against the security of its assets or otherwise ;

(iii) raise funds for the purpose of the Bank's operation through issue and sale of bonds and debentures ;

(iv) make secured loans and advances to Provincial Cooperative Banks, multi-unit cooperative societies and, subject to the regulations framed for the purpose, to the officers and staff of the Bank ;

(v) for the purpose of securing its loans and advances, accept pledge, mortgage, hypothecation or assignment of any kind of movable or immovable property or documents of title or guarantee of the Federal Government or a Provincial Government and such other securities as the Bank may deem fit ;

(vi) draw, accept, discount, buy or sell or rediscount bills of exchange or promissory notes bearing two or more good signatures, one of which shall be that of a scheduled bank or a Provincial Cooperative Bank ;

(vii) issue guarantees and give indemnities in relation to its business ;

(viii) subscribe to the debentures, being debentures repayable within a period not exceeding ten years, of any body corporate specially established for the promotion of business of cooperative societies ;

(ix) deliver, receive, collect and remit any securities ;

(x) acquire, maintain and transfer all movable or immovable properties, including residential premises, for carrying on business ;

(xi) open accounts or enter into any agency arrangement with any bank or financial institution in or outside Pakistan ;

(xii) invest its funds in Government Securities and other approved securities and if so directed by the Board and with the approval of the Federal Government, in the share capital of—

(a) a Provincial Cooperative Bank up to an amount not exceeding twenty five per cent of the fresh capital contributed by the Provincial Government of the Province within which that Provincial Cooperative Bank is registered ; and

(b) a multi-unit cooperative society up to an amount not exceeding twenty five per cent of its paid up capital ;

(xiii) sell and realise property, movable or immovable, which may in any way come into the ownership, possession or control of the Bank in the satisfaction or part satisfaction of any of its claims and the acquisition and the holding of, and generally the dealing with, any right, tide or interest in any property, movable or immovable, which may be the Bank's security for any advance or loan or connected with any such security ;

(xiv) assist the Federal Government and the Provincial Governments in formulating schemes for the development and revitalisation of the cooperative movement in the country in general and the Provincial Cooperative Banks in particular ;

(xv) assist Provincial Cooperative Banks in preparing their seasonal and developmental loaning programmes and conduct appraisal and undertake feasibility study of projects covered by such loaning programmes ;

(xvi) encourage the development of special cooperative projects the objects or area of operation of which may extend to more than one Province ;

(xvii) organise training in cooperation and cooperative banking for the employees of the Provincial Cooperative Banks and other cooperative societies ;

(xviii) ensure proper utilisation of loans obtained from the Bank ;

(xix) carry out research on problems of rural credit and on such other matters as have a bearing on the development of the cooperative movement in the country ;

(xx) lend money in the inter-bank call money market ;

(xxi) issue letters of credit ;

(xxii) appoint attorneys and agents ;

(xxiii) subject to regulations framed for the purpose, maintain and operate the provident fund and other funds created for the benefit of its employees ;

(xxiv) perform such functions and exercise such powers as may be entrusted to or conferred upon it by or under any law ; and

(xxv) Generally do all such matters and things as may be necessary, incidental to or consequential upon exercise of its powers or the discharge of its duties or functions under this Ordinance or any other law.

18. **Prohibited business.**—The Bank shall not undertake any kind of business other than that authorised by or under this Ordinance, and in particular it shall not—

(i) engage in any trade or otherwise have a direct interest in any commercial, industrial or other undertaking except such interest as it may any way acquire in the course of satisfaction of any of its claims, but all such interest shall be disposed of at the earliest possible moment ;

(ii) purchase its own shares or purchase or subscribe to the shares of any bank other than a Provincial Cooperative Bank or of any company or make any advance or loan or open any credit or give any financial accommodation upon the securities of its own shares or allow any debtor to set off his debts or part of his debts to the Bank against such shares ;

(iii) accept, buy, discount or advance, lend or open any credit or give accommodation or rediscount a bill of exchange or promissory note bearing two or more good signatures, one of which is not that of a scheduled bank or of a Provincial Cooperative Bank ; or

(iv) make unsecured advances and loans.

19. **Borrowing powers.**—(1) The Bank may, for the purpose of its business, borrowing from all or any of the persons mentioned in clause (ii) of sub-section (2) of section 17 and raise finances by issue and sale of bonds and debentures carrying interest at such rate as may be approved by the Board :

Provided that the total of the sums due on such bonds and debentures issued and outstanding and the contingent liabilities of the Bank in respect of guarantees shall not, at any time, exceed ten times the aggregate of the amount, of the paid-up share capital and reserves of the Bank.

(2) The bonds and debentures of the Bank may be guaranteed by the Federal Government as to the repayment of the principal and payment of interest.

20. **Power to impose conditions.**—For the purpose of transacting any business under this Ordinance with any Provincial Co-operative Bank or a multi-unit cooperative society, the Bank may impose such conditions as it may consider necessary or expedient for protecting its interest and securing that its guarantee, advance, loan or other assistance is put to such use by the Provincial Cooperative Bank or the multi-unit cooperative society as it has agreed to and any condition so imposed shall, notwithstanding anything contained in any other law for the time being in force, be valid and enforceable.

21. **Power to call for payment before agreed period.**—Notwithstanding any agreement to the contrary, the Bank may, by notice, require any borrower to which it has granted any loan, or any person liable for payment of such loan, forthwith to repay the loan in full if—

(a) it appears to the Board that information false or misleading in any material particular has been given in the application for advance, loan, credit or any financial accommodation ; or

(b) the borrower has failed to comply with the terms of any agreement with the Bank in the matter of the advance, loan, credit or financial accommodation ; or

(c) there is reasonable apprehension in the opinion of the Managing Director that the borrower is unable to pay its debts or may go into liquidation ; or

(d) the property pledged, mortgaged, hypothecated or assigned to the Bank as security for the advance, loan or credit or financial accommodation is not in proper condition to the satisfaction of the Bank or its value as estimated by the Bank has depreciated by more than twenty per cent, and further security to the satisfaction of the Bank is not given within the time specified by the Bank ; or

(e) without the permission of the Bank, any property pledged, mortgaged, hypothecated or assigned to the Bank is leased or rented to third parties or is in any way charged, disposed of or removed from the place where it was at the time when the loan, advance, credit or financial accommodation was granted ; or

(f) for any other reason it is necessary in the opinion of the Board to protect its interest.

22. **Special provision for enforcement of claims by the Bank.**—(1) Where the Bank becomes entitled to require the immediate payment of any loan before the due date by reason of breach of any condition of any agreement between the Bank and a borrower to whom an advance, loan or credit has been granted or any person liable for payment of that advance, loan, or credit, or where a borrower to whom any advance, loan, or credit has been granted or any person liable for payment of that advance, loan or credit fails to repay it by the due date or in compliance of a notice under section 21, an officer of the Bank generality or specially authorised by the Board in this behalf may apply to the District Judge within the local limits of whose jurisdiction the borrower carries on the whole or a substantial part of his business or the office or branch of the Bank from which the loan was disbursed is situated, for any one or more of the following reliefs, namely :—

(a) an order for the sale of the property pledged, mortgaged, hypothecated or assigned to the Bank as security for the advance, loan or credit ; or

(b) an injunction *ad interim* where there is apprehension that the property pledged, mortgaged, hypothecated or assigned to the Bank may be leased or rented to a third party or in any way charged, disposed of or removed from the place where it was at the time the advance, loan, or credit was granted, without the permission of the Board.

(2) An application under sub-section (1) shall state the nature and extent of the liability of the borrower to the Bank, the ground on which it is made and such other particulars as may be prescribed by rules.

(3) When the application is for the relief mentioned in clause (a) or (b) of sub-section (1), the Ditsrict Judge shall pass an order *ad interim* attaching the property referred to in clause (a) of sub-section (1) or such other property of the borrower or of the persons liable for payment of the advance, loan or credit or of both as is likely in his estimation to fetch, on being sold, an amount equivalent to the outstanding liability of the borrower to the Bank together with costs of the proceedings taken under his section with or without an injunction *ad interim* restraining the borrower from leasing or renting the property or in any way charging, disposing of or transferring or removing any property without the consent of the Board.

(4) Before passing an order under sub-section (3), the District Judge may, if he thinks fit, examine the person making the application.

(5) At the time of passing an order under sub-section (3), the District Judge shall issue to the borrower a notice accompanied by a copy of the order, the application and evidence, if any, recorded by him and calling upon him to show cause on a date to be specified in the notice why the order of attachment *ad interim* should not be made absolute or the injunction be not confirmed.

(6) If no cause is shown on or before the date specified in the notice under sub-section (5), the District Judge shall forthwith make the order *ad interim* absolute, and direct the sale of the attached property or confirm the injunction.

(7) If cause is shown, the District Judge shall proceed to investigate the claim of the Bank and the provisions of the Code of Civil Procedure, 1908 (Act V of 1908), shall as far as practicable, apply to such proceedings.

(8) On completing an investigation under sub-section (7), the District Judge shall pass an order—

(a) confirming the order of attachment or directing the sale of the attcahed property ; or

(b) varying the order of attachment so as to release a portion of the property from attachment and directing the sale of the remainder of the attached property ; or

(c) releasing the property from attachment, if he is satisfied that it is not necessary in the interest of the Bank to retain it under attachment ; or

(d) confirming or vacating the injunction :

Provided that when making an order under clause (c), the District Judge may make such further orders as he thinks necessary to protect the interest of the Bank and may apportion the costs of the proceedings in such manner as he thinks fit :

Provided further that, unless the Bank intimates to the District Judge that it will not appeal against the order releasing any property from attachment, such order shall not be executed until the expiry of the period mentioned in sub-section (10), or if an appeal is preferred, unless the High Court otherwise directs, until the appeal is disposed of.

(9) An order under this section for the attachment or sale of the property shall be carried into effect as far as may be in the matter provided in the Code of Civil procedure, 1908 (Act V of 1908), for attachment or sale of property in execution of a decree as if the Bank were the decree-holder.

(10) Any party aggrieved by an order under sub-section (6) or sub-section (8) may, within thirty days from the date of the order, appeal to the High Court or, where the order is of a Judge of a High Court exercising original civil jurisdiction, to the Court to which an appeal from the judgement of such Judge lies, and upon such appeal the appellate court may, after hearing the parties, pass such orders as it thinks fit.

23. **Recovery of Bank's dues.**—Without prejudice to the provision of section 21 and 22, all sums due to the Bank shall be recoverable as an arrear of land revenue ; Provided that no sum shall be so recovered unless not less than fifteen days' notice has been given by the Bank to the borrower that the sum will be so recovered :

Provided further that, in so giving notice, the Bank shall notify the borrower that he may pay Bank such instalments as may be fixed in the notice and that upon his so paying every instalment on or before the due date the recovery will be suspended but that it will otherwise proceed as to the entire sum outstanding in case of any default in any instalment including the first.

24. **General lien and preferential treatment to the dues of the Bank.**—Where a Provincial Cooperative Bank or a multi-unit cooperative society to which an advance, loan or credit or any financial accommodation has been made is wound up, any sum due to the Bank in respect of such advance, loan, credit or financial accommodation shall, subject to any claim of the Federal Government, be the first charge on the assets of the Provincial Cooperative Bank or multi-unit cooperative society.

25. **Power to inspect.**—(1) Notwithstanding any law to the contrary, the Bank may at any time and, on being directed so to do by the State Bank, shall, inspect any Provincial Cooperative Bank or multi-unit cooperative society, including its branches and offices, and its books and accounts.

(2) The inspection shall be carried out by such officers of the Bank as the Bank may direct.

(3) It shall be the duty of every Director or other officer or employee of the Provincial Cooperative Bank or multi-unit cooperative society to produce to any officer, hereafter in this section called Inspecting Officer, making an inspection, under this section, all such books, accounts and other documents in his custody or power and to furnish him with such information, statement and documents and copies thereof, relating to the fairs of the Provincial Cooperative Bank or, as the case may be, multi-unit cooperative society and within such time as the Inspecting Officer may require.

(4) The Inspecting Officer may examine on oath any Director or other officer or employee of the Provincial Cooperative Bank or multi-unit cooperative society in relation to its business and may administer an oath accordingly.

(5) The Bank shall supply to the Provincial Government concerned, the State Bank and the Provincial Cooperative Bank or, as the case may be, the multi-unit cooperative society a copy of its report on the inspection made under this section.

(6) The property in the report supplied to the Provincial Cooperative Bank or multi-unit cooperative society under sub-section (5) shall always lie in the Bank and the provisions of section 34 shall apply with equal force to the Bank, the State Bank and the Provincial Cooperative Bank or as the case may be, the multi-unit cooperative society and the officers and servants of the Bank, the State Bank and the Provincial Cooperative Bank or, as the case may be, the multi-unit cooperative society.

26. **Power to prohibit acceptance of deposits.**—If the State Bank, after considering the recommendation of the Bank on the report referred to in section 25 or otherwise, at any time is of the opinion that the affairs of a Provincial Cooperative Bank or multi-unit cooperative society are being conducted against the public interest or to the detriment of the interest of its depositors, or in a manner detrimental to the interest of the Provincial Cooperative Bank or multi-unit cooperative society, it may, after giving such opportunity to the Provincial Cooperative Bank or, as the case may be, multi-unit cooperative society to make a representation in connection with the report as in the opinion of the State Bank seems reasonable, by order in writing—

(a) prohibit the Provincial Cooperative Bank or multi-unit cooperative society from accepting deposits ; or

(b) restrict the acceptance of such deposits only upon such terms and conditions as may be specified in the order :

Provided that—

(i) no such other shall be passed without the prior approval in writing of the Federal Government ; and

(ii) the State Bank may defer for such period as it may think fit the passing of an order under this section, or cancel or modify any such order, upon such terms and conditions as it may think fit to impose.

27. **Power to call meeting and depute observers, etc.**—The Bank may, by order in writing,—

(i) require a Provincial Cooperative Bank or multi-unit cooperative society to call a meeting of its Board of Directors for the purpose of considering any matter relating to its affairs, or require any of its officers to discuss any such matter with an officer of the Bank ;

(ii) depute one or more of its officers to watch the proceedings of any meeting of the Board of Directors of a Provincial Cooperative Bank or multi-unit cooperative society or of any of its committees or of any body constituted by it and require it to give an opportunity to the officer or officers so deputed to be heard at such meeting ;

(iii) require the Board of Directors of a Provincial Cooperative Bank or multi-unit cooperative society or any of its committee or any other body constituted by it to give in writing to any officer specified by the Bank in this behalf at his usual address all notices and other communications relating to any meeting of the aforesaid Board, committee or other body ; and

(iv) appoint one or more of its officers to observe the manner in which the affairs of a Provincial Cooperative Bank or multi-unit cooperative society or of its offices or branches are being conducted and make a report thereon.

28. **Power of the Bank to lay down policy guide-lines and give directives in regard to business.**—(1) The Bank may from time to time lay down policy guide-line in relation to the business of Provincial Cooperative Banks or multi-unit cooperative societies generally, or any Provincial Cooperative Bank or multi-unit cooperative society in particular, and the Banks and societies or, as the case may be, the Bank or society shall be bound to follow the policy guide-lines so determined.

(2) Without prejudice to the generality of the power conferred by sub-section (1), the Bank may, and if so required by the State Bank shall, give directions to Provincial Cooperative Banks generally or to any Provincial Cooperative Bank in paticular as to the credit ceiling to be maintained, the credit targets to be achieved for different purposes, the type, extent and purposes of, and the security against which, advances may or may not be made, margins to be maintained in respect of secured advances and rate of interest to be charged on advances or, as the case may be, given on deposits and the Provincial Cooperative Banks or Bank shall be bound to comply with any directions so given.

(3) Where the Bank is satisfied that—

(a) in the public interest ; or

(b) to prevent the affairs of a Provincial Cooperative Bank from being conducted in a manner detrimental to the interest of its depositors or in a manenr prejudicial to the interest of any Provincial Cooperative Bank ; or

(c) to secure the proper management of any Provincial Cooperative Bank ; it is necessary to issue directions to a Provincial Cooperative Bank, it may, from time to time, issue such directions as it may deem fit and the Provincial Cooperative Bank shall be bound to comply with it within such time as may be specified in it.

29. **Maintenance of liquid assets.**—Every Provincial Cooperative Bank shall maintain in Pakistan in cash, gold or unencumbered approved securities or balances with the Bank or the State Bank valued at a price not exceeding current market price, an amount which shall not at the close of business on any day be less than twenty per cent of the total of its time and demand liabilities in Pakistan, excluding paid-up capital, reserves, unappropriated profit and its borrowings from the Bank and any International Agency :

Provided that a Provincial Cooperative Bank existing on the commencement of this Ordinance may be allowed by the Bank to comply with this requirement within such period as it may deem fit ;

Provided further that the Bank shall when directed by the State Bank vary the percentage of liquid assets required to be maintained under this section.

30. **Power to remove Directors, on other managerial persons from officer and to super made Board of Directors of a Provincial Cooperative Bank.**—The Bank, in relation to removal of a Director or other managerial person or, as the case may be, the supersession of the Board of Directors, of a Provincial Cooperative Bank, shall have the same powers as are conferred on the State Bank, in relation to removal of the Directors or other managerial persons from office or as the case may be, the supersession of the Board of Directors of a banking company, under section 41A, 41B and 41C of the Banking Companies Ordinance, 1962 (LVII of 1962), subject to the same limitations and procedure as are provided for in the aforesaid sections with the modification that—

- (i) references to the State Bank were references to the Bank ; and
- (ii) in section 41C,—
    - (a) in sub-section (1), reference to Governor of the State Bank were reference to the Managing Director and the words " on a report by a standing committee set up by the State Bank for the purpose " were omitted ; and
    - (b) in sub-section (2), reference to the Central Board of Directors of the State Bank were reference to the Board.

31. **Power of the Bank to call for statements, returns, etc., and to publish information.**—(1) Every Provincial Cooperative Bank or multi-unit cooperative society including its official liquidator or receiver, if it is being wound up, shall at its cost, furnish to the Bank at such time such information, statement, returns and documents as the Bank may from time to time determine.

(2) The Bank may, if it considers it in the public interest so to do, publish any information obtained by it under this Ordinance in such consolidated form as it thinks fit.

32. **Duty of the officers and servants to maitain secrecy.**—(1) Except in the performance of his duties under this Ordinance or, subject to section 34, when required by law, every officer or servant of the Bank shall observe, and aid in preserving, secrecy in all matters relating to the affairs of the Bank not published by it and with regard to all matters relating to the financial and monetary affairs of any Provincial Cooperative Bank or coopertive society affiliated to it or any multi-unit cooperative society or any institution, person or body or persons or any Government or authority in or outside Pakistan that may come to his knowledge in the performance of his duties.

(2) Every such officer or servant who communicates any such matter except, save as otherwise provided in section 34, when required by law to do so or in the discharge of his duties as such shall be punishable with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

33. **Delegation of powers.**—(1) The Board may, for the purpose of efficient functioning of the Bank and facilitating transactions of its daily business, by a resolution published in the official Gazette, delegate to the Managing Director or any other officer of the Bank, subject to such conditions and limitations as may be specified therein, such of its powers and duties under this Ordinance as it may deem necessary.

(2) The Managing Director may, for the purpose of facilitating transaction of the Bank's business delegate to officers of the Bank, subject to such conditions and limitations, if any, as may be specified therein, such of the powers and duties assigned to him by or under this Ordinance as he may deem necessary.

34. **Prohibition against production and giving of evidence from unpublished record.**—(1) No Court, tribunal or authority shall have authority to compel the Bank or any of its officers or servants to produce or, as the case may be, given any evidence derived from any unpublished records of the Bank.

(2) No Court, tribunal or authority shall take notice of, or permit any one to produce or give any evidence derived from, any unpublished records of the Bank except with the prior written permission of the Managing Director who may give or withhold such permission.

35. **Reserves.**—The Bank shall establish a fund to be called the General Reserve Fund and create from time to time such other reserves as it may deem necessary.

36. **Disposal of profits.**—After making adequate provision for bad and doubtful debts, depreciation in assets, contribution to staff and superannuation funds, and such other matters and contingencies as are usualy provided for by bankers, the net annual profit shall be disposed of as follows, that is to say,—

(a) a percentage of the net profit to be determined every year by the Board shall be transferred to the General Reserve Fund until that Fund is equal to the paid-up share capital of the Bank;

(b) any surplus remaining thereafter, may be disposed of in such manner as may be decided by the Board.

37. **Accounts and audit.**—(1) Subject to sub-section (2), the Bank shall maintain its accounts in such manner as may be prescribed.

(2) The year of the account shall be the year commencing the first day of July and ending the thirtieth day of June.

(3) The accounts of the Bank shall be audited by one or more auditors who are chartered accountants within the meaning of the Chartered Accountants Ordinance, 1961 (X of 1961), appointed by the Board on such remuneration as the Board may determine.

(4) Every auditor appointed under sub-section (3) shall be supplied with a copy of the annual balance sheet of the Bank, and it shall be his duty to examine it together with the accounts and vouchers relating thereto; and every

auditor shall have a list delivered to him of all books kept by the Bank, and shall, as all reasonable times, have access to the books, accounts and other documents of the Bank, and may, in relation to such accounts examine any Director or officer of the Bank.

(5) The audit of the Bank shall be conducted at the officer or branch of the Bank where the books and documents to be audited are ordinarily kept.

(6) The auditors shall send, as soon as possible, to the Board and the State Bank a report upon the accounts of the Bank, the annual balance sheat and the statement of profit and loss and, in every such report, they shall state whether in their opinion the balance sheet is a full and fair balance sheet containing all necessary particulars and properly drawn up so as to exhibit a true and correct view of the state of the affairs of the Bank, and, in case they have called for any explanation or information from the Bank or from any officer of the Bank, whether it has been given and whether it is satisfactory.

38. **Exemption of the Bank from certain taxes.**—Notwithstanding anything contained in the Income-tax Act, 1922 (XI of 1922), the Business Profits Tax Act, 1947 (XXI of 1947), the Gift-tax Act, 1963 (XIV of 1963), the Wealth-tax Act, 1963 (XV of 1963), or any other law in force relating to income-tax, super-tax, wealth-tax, gift-tax or business profits tax, the Bank shall not be liable to pay any such tax on its income, profits, gains, wealth or gifts.

39. **Exemption from stamp duty, etc.**—The Bank shall not be liable to the payment of any stamp duty, court fee or registration fee payable under any law for the time being in force relating to stamp duty, court fees or registration of documents.

40. **Exemption from compulsory registration of bonds and debentures of the Bank.**—Nothing contained in clause (b) of sub-section (1) of section 17 of the Registration Act, 1908 (XVI of 1908), shall apply to—

(1) any bond or debenture issued by the Bank and not creating, declaring, assigning, limiting or extinguishing any right, title or interest to or in any immovable property except in so far as it entitles the holder to the security afforded by a registered instrument whereby the Bank has mortgaged, conveyed or otherwise transferred the whole or part of its immovable property or any interest therein to trustees upon trust for the benefit of the holders of such bonds or debentures ; or

(2) any endorsement upon or transfer of any bond or debenture issued by the Bank.

41. **Liquidation of the Bank.**—No provision of law relating to the winding up of companies or banks shall apply to the Bank and the Bank shall not be wound up save by order of the Federal Government on the recommendation of the State Bank ; and in such an event, the surplus of assets over liabilities of the Bank shall revert to shareholders in proportion to their shares in the paid-up capital.

42. **Reorganisation of cooperative structure.**—(1) There shall be one Provincial Cooperative Bank in each Province.

(2) The Provincial Cooperative Bank shall have branches at such places as it may deem fit.

(3) Each Provincial Cooperative Bank shall have and maintain paid-up capital and reserves of such minimum value as may be determined by the Bank from time to time.

Explanations.—I. If any dispute arises in computing the aggregate value of the paid-up capital and reserves of a Provincial Cooperative Bank, a determination thereof by the Bank shall be final.

II. For the purposes of this sub-section, "value" means the real or exchangeable value, or, if the real or exchangeable value exceeds the nominal value, the nominal value.

(4) Except as provided in sub-section (5), all cooperative banks, not being Provincial Cooperative Banks, by whatever name called, existing on the commencement of this Ordinance, and a cooperative bank which ceases to be a Provincial Cooperative Bank by reason of a Cooperative Society being notified in pursuance of clause (p) of section 2, shall stand dissolved and their undertakings shall stand transferred to, and vest in, the Provincial Cooperative Bank of the Province within which such cooperative banks are registered, hereinafter referred to as the Provincial Cooperative Bank, on such terms and conditions as the Provincial Government of that Province may by order, notified in the official Gazette, specify :

Provided that nothing in this sub-section shall be deemed to render a Provincial Cooperative Bank liable to pay to the shareholders, creditors or employees of a cooperative bank the assets of which so stand transferred to, and vested in, if any amount in excess of the amount, if any, which any of them would have been entitled to receive in the event of the winding up of such cooperative bank,

Explanations.—I. For the purpose of this sub-section, "undertaking" includes all assets, rights, powers, authorities and privileges and all property, movable or immovable, cash balances, investments, actionable claims and rights in or arising out of contracts and all other rights and interests in or arising out of, such property and all books of accounts, registers, records and all other documents of whatever nature relating to such property as were, immediately before the commencement of this Ordinance, in the possession, ownership, power or control of a cooperative bank, whether within or outside Pakistan, and also includes paid-up capital, reserve funds, deposits, borrowings and all other liabilities and obligations of whatever kind, of such cooperative bank, subsisting immediately before the commencement of this Ordinance.

II. All contracts, deeds, bonds, agreements, powers of attorney, grants of legal representation and other instruments of whatever kind subsisting or having effect immediately before the commencement of this Ordinance, to which a cooperative bank, is a party or which are in favour of such cooperative bank shall be of as full force and effect against or in favour of the Provincial Cooperative Bank as they were immediately before the commencement of this Ordinance.

III. If on the commencement of this Ordinance, any suit, appeal or the legal proceedings of whatever kind which is by or against a cooperative bank or to which such cooperative bank is a party is pending in any court, the same shall not abate, be discontinued or be, in any way, prejudicially affected and such suit, appeal or other proceedings may be continued, prosecuted and enforced by or against the Provincial Cooperative Bank.

IV. Save as otherwise decided by the Provincial Cooperative Bank, but subject to the order referred to in this sub-section of the concerned Provincial Government, all officers and other employees of a cooperative bank, holding office immediately before the commencement of this Ordinance shall become the officers and employees of the Provincial Cooperative Bank.

V. Reference in the preceding paragraph to "commencement of this Ordinance" shall, in relation to a Cooperative Bank which ceases to be a Provincial Cooperative Bank by reason of a cooperative society being notified in pursuance of clause (p) of section 2, deemed to be a reference to the day on which the cooperative bank so ceases to be a Provincial Cooperative Bank.

(5) Nothing in sub-section (4) shall apply to a primary cooperative society which, immediately before the commencement of this Ordinance is not using, or ceases to use within a period of sixty days from such commencement, the word 'Bank' or any of its derivatives and does not perform whether with a member or non-member banking business as defined in clause (b) of section 5 of the Banking Companies Ordinance, 1962 (LVII of 1962).

(6) No cooperative bank shall be registered after the commencement of this Ordinance.

43. **Penalties**.—(1) Whoever—

(a) in any application for obtaining a loan advance or credit or financial accommodation or in any balance sheet, statement or profit and loss, declaration or any other document submitted to the Bank or a Provincial Cooperative Bank, wilfully makes any false statement or knowingly permits any false statement to be made; or

(b) uses or permits to be used any loan, advance, credit or financial accommodation for any purpose other than that for which it was granted by the Bank or, as the case may be, the Provincial Cooperative Bank; or

(c) intentionally destroys, or reduces the value of, the property on the security of which an advance, loan or credit or financial accommodation was granted to him or, without the prior approval in writing of the Bank or, as the case may be, a Provincial Cooperative Bank or otherwise than in accordance with the terms of the approval, transfers such property or any part thereof; or

(d) in any return, balance sheet or other document or in any information required or furnished under or for the purpose of the provisions of this Ordinance, wilfully makes a statement which is false in any material particular, knowing it to be false, or wilfully omits to make a material statement.

shall, without prejudice to any other action which may be taken against him under this Ordinance, be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.

(2) Whoever, without the consent in writing of the Bank, uses its name in any prospectus or advertisement shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

(3) If any person, being the Chairman, Director, Chief Executive, by whatever name called, or official liquidator or an officer of a Provincial Cooperative Bank or multi-unit cooperative society mismanages the affairs of the Provincial Cooperative Bank or multi-unit cooperative society or mis-uses his position for gaining directly or indirectly benefit for himself or any of his family members, he shall be punishable with imprisonment for a term which may extend to seven years and shall also be liable to fine and shall be ordered by the Court trying him to deliver up or refund within the time to be fixed by the Court; any property acquired or gained by him in his name or in the name of any of his family members by so mis-managing the affairs of the Provincial Cooperative Bank or multi-unit cooperative society or misusing his position or, in default, to suffer imprisonment for a term which may extend to three years.

(4) If advances are made by a Provincial Cooperative Bank in contravention of the provisions of sub-section (1) or (2) of section 28, every Director or other officer of the Provincial Cooperative Bank who is knowingly a party to the contravention shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.

(5) If any person fails to produce any book, account or other document or to furnish any statement or information which under sub-section (3) of section 25 it is his duty to produce or furnish or to answer any question relating to the business of the Provincial Cooperative Bank or multi-unit cooperative society, which he is asked by an officer making an inspection under that section, he shall be punishable with fine which may extend to ten thousand rupees in respect of each offence and, in the case of continuing failure, with an additional fine which may extend to one thousand rupees for each day after the first during which the failure continues.

(6) If any deposits are received by a Provincial Cooperative Bank or a multi-unit cooperative society in contravention of an order under section 26, every Director or other officer of the Provincial Cooperative Bank or multi-unit cooperative society, unless he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent it, shall be deemed to be guilty of such contravention and shall be punishable with a fine which may extend to four time the amount of deposits so received.

(7) If any other provision of this Ordinance is contravened or if any default is made in complying with any requirement of this Ordinance or of any order, rule or directive made or condition imposed thereunder, every Director, Liquidator or officer of the Provincial Cooperative Bank or multi-unit cooperative society or any other person who is knowingly a party to the contravention or default shall be punishable with fine which may extend to three thousand rupees and, in the case of a continuing contravention or defaut, with an additional fine which may extend to five hundred rupees for every day after the first during which such contravention or default continues.

(8) Without prejudice to the provisions of sub-section (7), a Provincial Cooperative Bank which makes default in complying with the requirement of section 29 or sub-section (3) of section 42 shall, in respect of very day of default, pay to the Bank on demand a penalty at a rate not exceeding five per cent above

the bank rate determined and made public under the provisions of the State Bank of Pakistan Act, 1956 (XXXIII for 1956),—

(a) if no amount is maintained, of the minimum amount required to be maintained under section 29 or, as the case may be, sub-section (3) of section 42; and

(b) if any amount below such minimum is maintained, of the amount by which the amount maintained falls short of the required minimum.

(9) Without prejudice to the provisions of sub-section (7), if a Provincial Cooperative Bank fails or refuses to pay or make the whole or part of the amount referred to in sub-section (8), the Bank may, without notice to the Provincial Cooperative Bank, debit the amount of default to any of its accounts held with the Bank.

44. **Bar of investigation.**—No police officer or other person or authority shall investigate or permit investigation into, or hold or permit the holding of enquiry into, any of the offences mentioned in section 32 or section 43 without a request in writing from an officer of the Bank generally or specially authorised in writing in this behalf by the Bank.

45. **Cognizance of offences, etc.**—(1) No court shall take cognizance of any offence punishable under this Ordinance except upon a complaint in writing made by an officer of the Bank generally or specially authorised in writing in this behalf by the Bank and no court other than the High Court shall try such offence.

(2) The High Court shall have, in respect of the trial of an offence referred to in sub-section (1), all the powers which it has in relation to a trial before it under the Code of Criminal Procedure, 1898 (Act of 1898), hereafter in this section referred to as the Code, and shall follow the procedure provided in the Code for such trial except as hereinafter provided, namely :—

(a) section 297 of the Code shall have effect as if it required the High Court, upon the case for the defence and the prosecutor's reply, if any, being concluded, to proceed with all reasonable speed to pronounce its judgement; and

(b) section 352 of the Code shall have effect as if it required the High Court, upon an application being submitted to it by the Bank stating that it is in the interest of the Provincial Cooperative Banks or multi-unit cooperative societies in general or a Provincial Cooperative Bank or multi-unit cooperative society in particular that any proceedings are not held in open Court, to order that the public generally shall not have access to, be or remain in, the room or building used by the Court.

46. **Certain claims for compensation barred.**—No person shall have any right, whether in contract or otherwise, to any compensation for any loss incurred by reason of the operation of any of the provisions of this Ordinance or by reason of the compliance by a Provincial Cooperative Bank or multi-unit cooperative society with any order or direction given to it under this Ordinance.

47. **Indemnity.**—No suit or other legal proceeding shall lie against the Bank, the State Bank, the Federal Government or a Provincial Government or any officer of the Bank, the State Bank or such Government for anything which is

in good faith done or intended to be done in pursuance of this Ordinance or of any rules, regulations or orders made thereunder or for any damage caused or likely to be caused by anything done or intended to be done as aforesaid.

48. **Amendment of Ordinance No. LVII of 1962.**—In the Banking Companies Ordinance, 1962 (LVII of 1962), section 3 shall be omitted.

49. **Amendment of Act XIX of 1974.**—In the Banks (Nationalization) Act, 1974 (XIX of 1974).—

(a) section 5A shall be omitted ; and

(b) in the Schedule, the entry "(8) Punjab Provincial Cooperative Bank Limited" shall be omitted.

50. **Power to make rules.**—Subject to the approval of the Federal Government, the Board may, by notification in the official Gazette, make rules for carrying out the purposes of this Ordinance.

51. **Power to make regulations.**—(1) The Board may make regulations to provide for all matters not required to be provided for by rules and provision for which is necessary or expedient for carrying out the purposes of this Ordinance.

(2) Where any provision of a regulation is inconsistent with any provision of the rules, the provision of the rules shall prevail.

FAZAL ELAHI CHAUDHRY,
President.

Countersigned.

ZULFIKAR ALI BHUTTO,
Prime Minister.

MIR MOHAMMAD ALI,
Draftsman and Ex-officio
Additional Secretary.

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EXTRAORDINARY
PUBLISHED BY AUTHORITY

ISLAMABAD, MONDAY, OCTOBER 25, 1976

PART I

Acts, Ordinances, President's Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS
(Law Division)

Islamabad, the 25th October, 1976

No. F. 24 (1)/76-Pub.—The following Ordinance made by the President on the 20th October, 1976 is hereby published for general information :—

ORDINANCE No. XLI OF 1976

AN

ORDINANCE

to provide for the constitution and regulation of the Pakistan Railways Police.

WHEREAS it is expedient to provide for the constitution and regulation of the Pakistan Railways Police for the safety of passengers and goods transported by Pakistan Railways, the protection of Railway property, the prevention, inquiry and investigation of offences committed in relation to Pakistan Railways and for matters connected therewith ;

AND WHEREAS the National Assembly is not in session and the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President is pleased to make and promulgate the following Ordinance :—

CHAPTER I

1. **Short title, extent, application and commencement.**—(1) This Ordinance may be called the Pakistan Railways Police Ordinance, 1976.

(2) It extends to the whole of Pakistan.

Price : Ps. 25

[3536 Ex. Gaz.]

(3) It shall apply to all members and officers of the Pakistan Railways Police wherever they may be.

(4) It shall come into force at once.

2. **Definitions.**—In this Ordinance, unless there is anything repugnant in the subject or context,—

(a) 'Chief Executive' means a person appointed by the Federal Government to manage the Pakistan Railways, by whatever name called ;

(b) 'Code' means the Code of Criminal Procedure, 1898 (Act V of 1898) ;

(c) 'competent authority' means any officer or authority designated as such by the Federal Government ;

(d) 'Inspector-General' means the Inspector-General of the Pakist Railways Police or any person for the time being performing the duties of the Inspector-General ;

(e) 'member' means a person, other than an officer, who is appointed to the Pakistan Railways Police and has signed an affirmation in the form set out in the First Schedule ;

(f) 'offence' means an offence punishable under this Ordinance or under any other law for the time being in force ;

(g) 'officer' means a person who is so appointed to the Pakistan Railways Police and has signed an affirmation in the form set out in the First Schedule ;

(h) 'Officer-in-charge of Railway Police Station' means any person appointed as such by the competent authority and includes, when the officer-in-charge of the Railway Police Station is absent from the station-house or is unable by reason of illness or any other cause to perform his duties, the member present at the station-house who is next in rank to such officer and is above the rank of a constable ;

(i) 'Provincial Police' means the police constituted by a Provincial Government under the Police Act, 1861 (V of 1861) ;

(j) 'Railway' means railway as defined in the Railways Act, 1890 (IX of 1890), including rolling stock as defined in the said Act, but excluding—

  (i) such lines of rail as lie outside the territorial limits notified under section 3 ; and

  (ii) such fixed installations as lie outside the territorial limits notified under section 3 and are classified by the Federal Government as key points ;

(k) 'regulations' means regulations made under this Ordinance ; and

(l) 'rules' means rules made under this Ordinance,

CHAPTER II

3. **Power to constitute, control and maintain the Pakistan Railways Police and its functions.**—(1) Notwithstanding anything contained in any other law for the time being in force, the Federal Government may constitute, control and maintain a force to be called the Pakistan Railways Police for performing, within such territorial limits as the Federal Government may, by notification in the official Gazette, specify the following functions, namely :—

(a) preventing loss to Railway property and property consigned to the Railways and prevention of offences in respect thereof ;

(b) ensuring proper conduct of persons on the Railways ;

(c) general maintenance of law and order on the Railways and taking cognizance of offences committed on them ;

(d) to render all possible assistance to passengers and railway servants ;

(e) to protect travellers from injury to person or property ;

(f) to keep Railway platforms and other Railway premises clear of idlers and beggars and to keep a look out for suspicious persons, smugglers and persons travelling with arms without a license or in contravention of rules, regulations or orders for the time being in force ;

(g) to search empty carriages for property left behind by passengers and to take possession of such property for due disposal under the law ;

(h) to control and regulate movement and parking of hackney carriages and mechanically propelled vehicles at Railway stations and to enforce the regulations of the Railway authorities with regard to them ;

(i) to bring to the notice of the appropriate Railway authorities any contravention, breach or violation of any law of which the Pakistan Railways Police cannot itself take cognizance ; and

(j) such other functions connected with the purposes of this Ordinance as the Federal Government may, by notification in the official Gazette, require the Pakistan Railways Police to perform.

(2) Without prejudice to the powers conferred on it by or under this Ordinance, the Federal Government may, in relation to the Pakistan Railways Police, exercise all powers which, under the Police Act, 1861 (V of 1861), and the Code, are exercisable by a Provincial Government in relation to the Provincial Police.

CHAPTER III

4. **Constitution, superintendence and administration of the Pakistan Railways Police.**—(1) The Pakistan Railways Police shall be constituted in such manner as may be prescribed by rules.

(2) The head of the Pakistan Railways Police shall be an Inspector-General who shall administer it in accordance with the provisions of this Ordinance and the rules and regulations, and such orders and instructions as may be made or issued by the Federal Government from time to time.

(3) The Inspector-General shall exercise his powers and perform his functions under the general supervision of the Chief Executive.

5. **Transfer of Provincial Railway Police and Railway Watch and Ward to the Pakistan Railways Police.**—(1) Notwithstanding anything contained in any other law for the time being in force or any contract, agreement or any condition of service,—

(a) all persons holding any rank or post, not above the rank or post of Superintendent, in or under the Railway Police of any Province ; and

(b) all persons holding any rank or post in the Railway Watch and Ward ;

shall, subject to such conditions as may be laid down by the Federal Government, stand transferred and appointed to such corresponding ranks or posts in or under the Pakistan Railways Police as may be notified by the Federal Government.

(2) If, at any time, the Federal Government considers that the services of any person referred to in clause (a) of sub-section (1) are no longer needed by the Pakistan Railways Police, the Federal Government may, by order in writing, revert such person to the Railway Police of the Province to which he belonged immediately before the commencement of this Ordinance.

6. **Ordinance No. XXIII of 1969 not to apply to the Pakistan Railways Police.**—Nothing contained in the Industrial Relations Ordinance, 1969 (XXIII of 1969), shall apply to, or in relation to, the Pakistan Railways Police.

7. **Appointment of officers of the Pakistan Railways Police.**—For the purposes of this Ordinance, the Federal Government may, by notification in the official Gazette, appoint any person to be—

(a) the Inspector-General of the Pakistan Railways Police ;

(b) a Deputy Inspector-General of the Pakistan Railways Police ;

(c) a Superintendent of the Pakistan Railways Police ; and

(d) an officer with any other designation.

8. **Appointment of members and ministerial staff.**—(1) The Inspector-General, or an officer to whom the power is delegated by the Inspector-General, may appoint members and ministerial staff and determine the duties to be performed by them.

(2) Appointments under sub-section (1) shall be made by direct recruitment or promotion or transfer from any other force or any department of the Federal Government or a Provincial Government in such manner as may be prescribed by rules.

(3) The officers and members and ministerial staff shall receive such pay, pension, allowances and other remuneration, and shall enjoy such other privileges, as may be prescribed by rules. 6

(4) Every officer and member, other than the Inspector-General, shall receive a certificate in the form set out in the Second Schedule under the seal of the Inspector-General or such other officer as the Inspector-General may authorise in this behalf and, by virtue of holding such certificate, he shall be vested with the powers, functions and privileges of an officer or member, as the case may be.

(5) Any person who ceases, for any reason, to be an officer or member shall forthwith surrender the certificate referred to in sub-section (4) to any officer authorised by the Inspector-General in this behalf, together with the uniform and equipment, if any, issued to him.

(6) Officers and members of the Pakistan Railways Police shall wear such uniforms as may be prescribed by regulations.

9. **Powers of officers and members of the Pakistan Railways Police.**—(1) The Inspector-General shall exercise the powers of an Inspector-General of Police under the Police Act, 1861 (V of 1861).

(2) The Inspector-General shall, in respect of the officers, members and ministerial staff, have all the powers conferred on him by or under this Ordinance.

(3) An officer or member shall, in respect of Pakistan Railways,—

(a) for the purpose of inquiry, investigation, arrest, trial and prosecution, exercise all the powers conferred on an officer or member of Police under the Police Act, 1861 (V of 1861), and the Code (except powers under section 58 thereof), the Railways Act, 1890 (IX of 1890), this Ordinance and the rules and regulations ; and

(b) use such arms, ammunition and equipment as may be authorised by the Inspector-General for the purposes of this Ordinance.

(4) Officers superior in rank to an officer-in-charge of a Railway Police Station may exercise the same powers, throughout the local areas or jurisdictions to which they are appointed, as may be exercised by such officer within the limits of his station or jurisdiction.

Explanation.—For the purpose of the exercise by the officers and members of the powers of an officer-in-charge of a Railway Police Station under this Ordinance, 'Police Station' means any place declared, generally or specially, by the Federal Government to be a Police Station within the meaning of the 'Code'.

(5) If any officer or member suspects that any property is stolen property and that it is likely to be removed, transferred or otherwise disposed of before an order of the appropriate authority for its seizure is obtained, such officer or member may, by order in writing, direct the owner or any person who is apparently for the time being in possession thereof not to remove, transfer or otherwise dispose of such property in any manner except with the previous permission of that officer or member and such order shall be subject to any order made by the Court having jurisdiction in the matter.

(6) Any contravention of an order made under sub-section (5) shall be punishable with rigorous imprisonment for a term which may extend to one year, or with fine, or with both.

(7) An officer or an officer-in-charge of a Railway Police Station may, for the purposes of this Ordinance, call upon the Provincial Police and the District Magistrate concerned to come to the help of the Pakistan Railways Police and in such a case the Provincial Police and the District Magistrate shall act in the same manner as they act within their own jurisdiction for the maintenance of law and order, for the arrest of offenders and for recovery of persons and property.

CHAPTER IV

10. **Appointment of Magistrates and Public Prosecutors.**—Notwithstanding anything contained in the Code, the Federal Government may, for the purposes of this Ordinance, appoint—

(a) any person to be a Magistrate of the first class within the meaning of Code ; and

(b) any person or officer of the Pakistan Railways Police to be a public prosecutor within the meaning of the Code.

CHAPTER V

11. **Liabilities of officers and members.**—(1) It shall be the duty of every officer and member promptly to obey and to execute all orders and instructions issued to him by the competent authority.

(2) Every officer and member shall be liable to serve wherever he is required to serve by the competent authority.

(3) Every officer or member who is guilty of any violation of duty or wilful breach or neglet of any provision of this Ordinance or of any rule or regulation or lawful order made by a competent authority, or who withdraws from his duties without permission, or who, being absent on leave, fails, without reasonable cause, to report himself for duty on the expiration of such leave, or on being recalled to duty earlier, or who engages without authority in any employment other than his duty under this Ordinance, or who is guilty of cowardice, or who offers any unwarrantable personal violence to any person in his custody, shall be liable to be proceeded against departmentally, or, on conviction before a Magistrate, to imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(4) No court shall take cognizance of an offence punishable under sub-section (3) except upon a complaint in writing made by a person authorised in this behalf by the Federal Government.

(5) Any person convicted under sub-section (3) may, within thirty days from the date of his conviction, file an appeal to the Court of Session having jurisdiction, whose decision thereon shall be final.

12. **Indemnity.**—No suit, prosecution or other legal proceedings shall lie against any person for anything in good faith done or intended to be done under this Ordinance or the rules or regulations.

CHAPTER VI

13. **Public servant.**—Every officer and member of the Pakistan Railways Police shall be a public servant within the meaning of section 21 of the Pakistan Penal Code (Act XLV of 1860).

14. **Assets and liabilities.**—(1) All rights, properties, assets and liabilities of the Railway Police of a Province shall stand transferred to the Pakistan Railways Police on the commencement of this Ordinance.

(2) The transfer of rights, properties, assets and liabilities under sub-section (1) shall be subject to such terms and conditions as may be agreed upon between the Federal Government and the Provincial Government or, in the absence of such agreement, as may be determined by the President.

(3) All rights, properties, assets and liabilities of the Railway Watch and Ward shall stand transferred to the Pakistan Railways Police on the commencement of this Ordinance in such manner and to such extent as may be determined by the Federal Government.

15. **Delegation of powers by the Federal Government.**—The Federal Government may, by notification in the official Gazette, delegate all or any of its powers under this Ordinance, except those under section 17, to the Chief Executive or the Inspector-General.

16. **Delegation of powers by the Inspector-General.**—The Inspector-General may, with the prior approval in writing of the Federal Government, delegate all or any of his powers under the rules for the efficient functioning of the Pakistan Railways Police to any officer or member.

17. **Power to make rules.**—The Federal Government may, by notification in the official Gazette, make rules—

(a) regulating the functions and powers of the officers including the Magistrates and the public prosecutors ;

(b) regulating the grades of, and the remuneration and rewards to be paid to, the officers, members and ministerial staff of the Pakistan Railways Police and their conditions of service ;

(c) prescribing and regulating the award of departmental punishments and trial of cases by Magistrates ;

(d) appointing the place where a person punished with imprisonment may be kept in custody ; and

(e) generally for the purpose of carrying into effect the provisions of this Ordinance.

18. **Power to make regulations.**—The Inspector-General may, with the prior approval in writing of the Chief Executive, make regulations consistent with this Ordinance and the rules and shall forward a copy of any regulation so made to the Federal Government.

19. **Transitional provision.**—Till such time as the rules and regulations are framed,—

(a) the persons referred to in clause (a) of sub-section (1) of section 5, and the officers and members appointed after the commencement of this Ordinance, shall, so far as may be and with the necessary modifications, be governed by the Punjab Police Rules, 1934 ; and

(b) the persons referred to in clause (b) of the aforesaid sub-section shall, so far as may be and with the necessary modifications, be governed by the rules governing the Railway Watch and Ward immediately before the commencement of this Ordinance.

FIRST SCHEDULE

[*See* section 2 (e) and (g)]

FORM OF AFFIRMATION

I, ——————— son|daughter of ——————— solemnly affirm in the presence of Almighty God that I will bear true faith and allegiance to the Islamic Republic of Pakistan and that I will, as in duty bound, honestly and faithfully serve in the Pakistan Railways Police and go wherever I may be ordered by air, land or sea, and that I will observe and obey all commands of any officer set over me even to the peril of my life.

Signed in acknowledgement of the above having been read out tome.

Person Enrolled

Dated....................

Signed in my presence after I had ascertained that the person understood the purpose of what he|she signed.

Inspector-General,
Pakistan Railways Police
Or
Other Enrolling Officer.

ROMAN—URDU TRANSLATION OF AFFIRMATION

Main———WALD|BINT———Khuda-e-Taala Ko Hazir-o-Nazir Janker iman se iqrar karta|karti hun key main Islami Jamhooria Pakistan ka|ki suche dil se wafadar rahunga|rahungi aur Pakistan Railways Police men imandari aur wafadari se khidmat ser anjam doonga|doongi aur hawa, khushki ya tari ke raste jahan bhi jane ka hukam melaga jaonga|jaongi aur jise mera afsar muqarar kia jaega uskey her hukam ki tamil aur pairwi karunga|karungi, khah us men jan ka khatra ho.

SECOND SCHEDULE

[*See* section 8 (4)]

CERTIFICATE

Mr|Mrs|Miss ——————— has been appointed as officer|member of the Pakistan Railways Police under the Pakistan Railways Police Ordinance, 1976, and is vested with powers, functions and privileges of an officer|a member of the Pakistan Railways Police.

Identification of the
Officer|Member.

Inspector-General,
Seal of the Pakistan Railways,
Police.

Photo of the
Officer|Member.

FAZAL ELAHI CHAUDHRY,
President.

Countersigned.

ZULFIKAR ALI BHUTTO,
Prime Minister.

ABDUL HAYEE KURESHI,
Secretary.

CORRIGENDA

[*to the* Gazette of Pakistan, Extraordinary, *Part I, dated the 15th October, 1976, containing Ordinance No. XXXIX of 1976*].

Page 551 : In line 22, *for* "Officers" *read* "Offences".
,, ,, : In line 29, *for* "jnrious" *read* "jurious".
,, ,, : In line 30, *for* "of" *read* "or".

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ISLAMABAD, TUESDAY, OCTOBER 26, 1976

PART I

Acts, Ordinances, President's Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 26th October, 1976

No. F. 24 (1)|76-Pub.—The following Ordinance made by the President on the 20th October, 1976 is hereby published for general information :—

ORDINANCE NO. XLII OF 1976

AN

ORDINANCE

further to amend the State Bank of Pakistan Act, 1956

WHEREAS it is expedient further to amend the State Bank of Pakistan Act, 1956 (XXXIII of 1956), for the purpose hereinafter appearing;

AND WHEREAS the National Assembly is not in session and the President is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the State Bank of Pakistan (Amendment) Ordinance, 1976.

(2) It shall come into force at once.

[3549 Ex. Gaz.]

Price : Ps. 9

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ISLAMABAD, MONDAY, NOVEMBER 1, 1976

PART I

Acts, Ordinances, President's Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 31st October, 1976

No. F. 24 (1)/76-Pub.—The following Ordinance made by the President on the 30th October, 1976 is hereby published for general information :—

ORDINANCE No. XLIII OF 1976

AN

ORDINANCE

further to amend the Defence of Pakistan Ordinance, 1971

WHEREAS it is expedient further to amend the Defence of Pakistan Ordinance, 1971 (XXX of 1971), for the purpose hereinafter appearing ;

AND WHEREAS the National Assembly is not in session and the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in exercise of the power conferred by clause (1) of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title, extent and commencement.**—(1) This Ordinance may be called the Defence of Pakistan (Fourth Amendment) Ordinance, 1976.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

Price : Ps. 9

2. **Amendment of section 12, Ordinance XXX of 1971.**—In the Defence of Pakistan Ordinance, 1971 (XXX of 1971), section 12 shall be re-numbered as sub-section (1) of that section and, after sub-section (1) re-numbered as aforesaid, the following new sub-section shall be added, namely :—

> "(2) A Special Tribunal shall have the power to punish any person who obstructs or abuses its process or disobeys any of its orders or directions, or does anything which tends to prejudice the case of a party before it, or tends to bring it or any of its members into hatred or contempt, or does anything which, by law, constitutes contempt of court, with simple imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both.".

FAZAL ELAHI CHAUDHRY,
President.

Countersigned.
ZULFIKAR ALI BHUTTO,
Prime Minister.

ABDUL HAYEE KURESHI,
Secretary.

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ISLAMABAD, TUESDAY, NOVEMBER 2, 1976

PART I

Acts, Ordinances, President's Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS
(Law Division)

Islamabad, the 2nd November, 1976

No. F. 24 (1)|76-Pub.—The following Ordinance made by the President on the 2nd November, 1976 is hereby published for general information :—

ORDINANCE No. XLIV OF 1976

AN

ORDINANCE

further to amend the Regulation of Mines and Oil-fields and Mineral Development (Government Control) Act, 1948.

WHEREAS it is expedient further to amend the Regulation of Mines and Oil-fields and Mineral Development (Government Control) Act, 1948 (XXIV of 1948), for the purposes hereinafter appearing ;

AND WHEREAS the National Assembly is not in session and the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the Regulation of Mines and Oil-fields and Mineral Development (Government Control) (Amendment) Ordinance, 1976.

(2) It shall come into force at once.

Price : Ps. 25

[3616 Ex. Gaz.]

2. **Insertion of new sections 3A and 3B, Act XXIV of 1948.**—In the Regulation of Mines and Oil-fields and Mineral Development (Government Control) Act, 1948 (XXIV of 1948), hereinafter referred to as the said Act, after section 3, the following new sections shall be inserted, namely :—

"3A. **Production sharing agreement.**—(1) Notwithstanding anything contained in any other law for the time being in force, the President may enter into an agreement with any company, whether incorporated in Pakistan or outside Pakistan, for the grant of a licence or lease to explore, prospect and mine petroleum on the basis of a Production Sharing Agreement and on such terms and conditions as may be agreed upon between the Federal Government and the company.

(2) Notwithstanding anything contained in the Income-tax Act, 1922 (XI of 1922), a company with which an agreement such as is referred to in sub-section (1) is for the time being in force shall not be liable to pay tax on its income, profits or gains.

3B. **Concessions to petroleum exploration companies.**—(1) Notwithstanding anything contained in any other law for the time being in force, every company, whether incorporated in Pakistan or outside Pakistan, to whom a licence or a lease to explore, prospect and mine petroleum is granted under this Act, not being a company such as is referred to in sub-section (1) of section 3A, shall be entitled to the concessions specified in the Schedule in addition to any concessions for the time being admissible to it under any other law or the rules made under this Act.

(2) The Federal Government may, by notification in the official Gazette, amend the Schedule so as to add any concessions thereto or to improve any concessions therein.".

3. **Addition of Schedule, Act XXIV of 1948.**—In the said Act, after section 6, the following Schedule shall be added, namely :—

"SCHEDULE

(*See* Section 3B)

1. Any provisions of the rules made under section 2, or of any amendment in the Income-tax Act, 1922 (XI of 1922), hereinafter referred to as the Act, made after the effective date of an agreement for the grant of a licence or lease to explore, prospect or mine petroleum, which are inconsistent with the terms of the agreement, shall not apply to a company which is a party to the agreement.

2. Royalty shall be charged at a fixed rate of 12½ per cent of the well-head value and shall form part of the sum of payments to the Federal Government and taxes on income which shall neither be more than 55 per cent nor less than 50 per cent of the profits or gains before deduction of "payments to the Government" referred to in sub-rule (2) of rule 4 of the Second Schedule to the Act.

3. Before commencement of commercial production of petroleum, any expenditure on searching for, or on discovering and testing, a petroleum deposit, or on winning access thereto, allocable to a surrendered area and to the drilling

of a dry hole, shall be deemed to be lost at the time of the surrender of the area or the completion of the dry hole, as the case may be, for the purpose of the Second Schedule to the Act. Such lost expenditure shall be allowed in one of the two ways mentioned in sub-rule (1) of rule 2 of the said Schedule.

4. In addition to the net profits, the amount charged in annual financial accounts on account of additional allowance admissible under rule 3 of the Second Schedule to the Act, and depreciation at such rate as may be agreed upon between the President and a licensee or lessee, which is a company incorporated outside Pakistan, including its assignee, shall be allowed to be remitted and retained abroad, provided that the aggregate amount of such additional allowance and depreciation does not exceed an greed percentage of the investment in assests on which depreciation is charged.

5. The value of crude oil for purposes of royalty and income-tax shall be calculated on the basis of the price realised in transactions with purchasers other than the subsidiaries or affiliates of the licensee or lessee, including its assignee, and in case of transactions with a subsidiary or an affiliate, the value shall be calculated on such basis as may be agreed upon between the Federal Government and the licensee or lessee.

6. The income derived by the licensee or lessee from the use of any surplus capacity of its pipeline by any other licensee or lessee shall be assessed on the same basis as its income from petroleum produced by it from its concession area.

7. A licensee or lessee which is a company incorporated outside Pakistan, including its assignee, shall be allowed to export its share of petroleum after meeting such portion of the internal requirement of Pakistan as may be agreed upon.

8. Sale proceeds of the share of petroleum exported by a licensee or lessee which is a company incorporated outside Pakistan, including its assignee, shall be allowed to be retained abroad and to be used freely by it, subject to the condition that it shall bring back such portion of these proceeds as is required to meet its obligations under the lease.

9. No customs-duty or sales tax shall be levied on the import of machinery and equipment specified in the agreement for the purposes of exploration and drilling prior to commercial discovery.

10. A concessionary consolidated rate of 5¼ per cent customs-duty *ad valorem*, including sales tax and any surcharge related thereto, shall be charged on import of machinery and equipment required for development of each commercial discovery until twenty-four months from the effective date of the mining lease granted with respect to each such discovery, and thereafter the normal rate of customs-duty, sales tax and any other duty shall be applicable.

11. Foreign national employed by a licensee or lessee or its contractor shall be allowed to import commissary goods free of customs-duty and sales tax to the extent of $ 550 per annum, subject to the condition that the same shall not be sold or otherwise disposed of in Pakistan.

12. Foreign nationals employed by a licensee or lessee or its contractor shall be allowed to import used and *bona fide* personal and house-hold effects, excluding motor vehicles, free of customs-duty and sales tax subject to the condition that the same shall not be sold or otherwise disposed of in Pakistan.

13. Foreign nationals employed by a licensee or lessee or its contractor shall not be charged income-tax for a period of three years from the date of their arrival in Pakistan in accordance with, and subject to the provisions of, clauses (xiii) and (xiiia) of sub-section (3) of section 4 of the Act as in force on the effective date of the agreement with the licensee or lessee.

14. The data in respect of areas surrendered by a previous licensee or lessee shall be made available for inspection to a prospective licensee free of charge.

15. Initial participation by the Federal Government in exploration shall be to such extent as may be agreed upon between the Federal Government and the licensee. ".

FAZAL ELAHI CHAUDHRY,
President.

Countersigned.
ZULFIKAR ALI BHUTTO,
Prime Minister.

ABDUL HAYEE KURESHI,
Secretary.

CORRIGENDUM

[to the Gazette of Pakistan, Extraordinary, Part I, dated the 14th October, 1976, containing ordinance Nos. XXXVI to XXXVIII of 1976.]

Page 541 : In line 26, *for* " commencement this " *read* " commencement of this ".

CORRIGENDA

[to the Gazette of Pakistan, Extraordinary, Part I, dated the 16th October, 1976, containing Ordinance No. XL of 1976.]

Page 555 : In line 16, *for* " ancilliary " *read* " ancillary ".

,, 556 : In line 11, *for* " Trust " *read* " Trusts ".

,, 557 : In line 13 from the bottom, *for* " (Notionalization)" *read* "(Nationalization)".

,, 558 : In line 24, *for* " companies or " *read* " company for ".

,, 561 : In line 5 from the bottom, *for* " (I of 1872)". *read* " (I of 1872)",

Page

,, 562 : In line 13, *for* “ Act ;” *read* “ Act,”.

,, 563 : In line 6, *for* “ tide ” *read* “ title ”.

,, 564 ,: In line 7, *for* “ borrowing ” *read* “ borrow ”.

,, 565 : In line 10, *for* “ generality ” *read* “ generally ”.

,, : In line 33, *for* “ his ” *read* “ this ”.

,, 566 : In line 4, *for* “ attcahed ” *read* “ attached ”.

,, 567 : In line 12, *for* “ fairs ” *read* “ affairs ”.

: In line 6 from the bottom, *for* “ other ” *read* “ order ”.

,, 568 : In line 17 from the bottom, *for* “ paticular ” *read* “ particular ”.

,, 569 : In line 13, *for* “ **on** ” *read* “ **or** ”.

: In line 14, *for* “ **super made** ” *read* “ **supersede** ”.

: In line 4 from the bottom, *for* “ or coopertive ” *read* “ or co-operative ”.

,, 571 : In the second line, *for* “ as ” *read* “ at ”.

: In line 5, *for* “ officer ” *read* “ office ”.

,, 572 : In line 22, *for* “ in ”, *read* “ in ”.

: In line 23, *for* “ if any amount ” *read* “ it, any amount ”.

,, 574 : In line 7 from the bottom, *for* “ defaut ” *read* “ default ”.

: In the second line from the bottom, *for* “ very ” *read* “ every ”.

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PART I

Acts, Ordinances, President's Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS
(Law Division)

Islamabad, the 29th January, 1976

No. F. 24 (2)|76-Pub.—The following Order made by the President on the 26th January, 1976 is hereby published for general information :—

THE HIGH COURT JUDGES (LEAVE, PENSION AND PRIVILEGES) (AMENDMENT) ORDER, 1976

(P. O. No. 1 of 1976)

WHEREAS it is expendient further to amend the High Court Judges (Leave, Pension and Privileges) Order, 1970 (P. O. No. 9 of 1970), for the purposes hereinafter appearing ;

NOW, THEREFORE, in exercise of the powers conferred by the Fifth Schedule to the Constitution of the Islamic Republic of Pakistan, the President is pleased to make the following Order :—

1. **Short title and commencement.**—This Order may be called the High Court Judges (Leave, Pension and Privileges) (Amendment) Order, 1976.

(2) It shall come into froce at once and shall be deemed to have taken effect on the fourteenth day of August, 1973.

Price : Ps. 9

[733 Ex. Gaz.]

2. **Amendment of the First Schedule, P. O. No. 9 of 1970.**—In the High Court Judges (Leave, Pension and Privileges) Order, 1970 (P. O. No. 9 of 1970), in the First Schedule,—

I. in Part I,—

(a) in sub-paragraph (a),—

(i) for the words "five hundred" the words "one thousand" shall be substituted; and

(ii) for the words "one thousand three hundred and fifty" the words "one thousand seven hundred and fifty" shall be substituted; and

(b) sub-paragraph (b) shall be omitted; and

II. in Part II,—

(a) for sub-paragraph (b) the following shall be substituted, namely:—

"(b) an extra pension at the rate of one hundred rupees per month for each completed year of service for pension as Judge, so, however, that the maximum pension payable under this Part does not exceed one thousand seven hundred and fifty rupees."; and

(b) sub-paragraph (c) shall be omitted.

FAZAL ELAHI CHAUDHRY,
President.

Countersigned.
ZULFIKAR ALI BHUTTO,
Prime Minister.

ZIAUL HAQ CHANA,
Secretary.

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PART I

Acts, Ordinances, President's Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 6th February, 1976

No. F. 24 (2)|76-Pub.—The following Order made by the President on the 4th February, 1976 is hereby published for general information :—

THE SUPREME COURT JUDGES (LEAVE, PENSION AND PRIVILEGES) (AMENDMENT) ORDER, 1976.

(P. O. No. 2 of 1976)

WHEREAS it is expedient further to amend the Supreme Court Judges (Leave, Pension and Privileges) Order, 1968 (P. O. No. 1 of 1968), for the purposes hereinafter appearing ;

NOW, THEREFORE, in exercise of the powers conferred by the Fifth Schedule to the Constitution of the Islamic Republic of Pakistan, the President is pleased to make the following Order :—

1. **Short title and commencement.**—(1) This Order may be called the Supreme Court Judges (Leave, Pension and Privileges) (Amendment) Order, 1976.

(2) It shall come into force at once.

2. **Amendment of P. O. No. 1 of 1968.**—In the Supreme Court Judges (Leave, Pension and Privileges) Order, 1968 (P. O. No. 1 of 1968),—

(1) in paragraph 3, for the word " allowances ", wherever occurring, the word " salary " shall be substituted ;

(2) for paragraph 4 the following shall be substituted, namely :—

" 4. *Leave account.*—A leave account shall be kept for each Judge showing therein the amount of leave due to him in terms of leave on half salary and in such account there shall be—

Price : Ps. 19

[820 Ex. Gaz.]

(i) credited to him in two separate columns—

(a) a period equal to one-fourth of actual service ; and

(b) where any duties not connected with the business of the Supreme Court are assigned to a Judge and, for reasons of such assignment, the Judge does not avail of any vacation or avails of less than thirty days of vacation in any calendar year, in addition to the leave credited under the preceding sub-clause, a further period equal to double the period by which the vacation availed of by him falls short of thirty days ; and

(ii) debited to him the period of all leave on full or half salary granted to him :

Provided that the opening credit at the commencement of this Order shall not exceed six months in the case of any Judge. " ;

(3) in paragraph 5,—

(a) in sub-paragraph (1), for the words and comma " allowances, eighteen " the words and comma " salary, thirty-six " shall be substituted ;

(b) in sub-paragraph (2),—

(i) for the word " allowances " the word " salary " shall be substituted ; and

(ii) for the words " actual service " at the end the words, brackets, letter and figures " the period spent by him on actual service, but the leave credited to a Judge under sub-clause (b) of clause (i) of paragraph 4 shall not be subject to the limit herein specified " shall be substituted ; and

(c) for sub-paragraph (3) the following shall be substituted, namely :—

" (3) The period of leave granted at any one time shall not exceed, in the case of leave on full salary, five months and, in the case of leave of any other kind specified in paragraph 3, sixteen months. " ;

(d) in paragraph 6, for the word " allowances " the word " salary " shall be substituted ;

(e) for paragraphs 7, 8 and 9 the following shall be substituted, namely :—

" 7. *Leave salary.*—(1) The monthly rate of leave salary payable to a Judge while on leave on full salary shall be equal to the monthly rate of his salary.

(2) The monthly rate of leave salary payable to a Judge while on leave on half salary shall be equal to half the monthly rate of his salary.

(3) A Judge appointed after the commencement of this Order shall not be entitled to draw his leave salary otherwise than in Pakistan rupees unless he, immediately before such appointment, was entitled, in the service of Pakistan, to draw leave salary in foreign exchange in which case he may draw leave

salary in foreign exchange on the same terms and conditions as were applicable to him as a person in the service of Pakistan.

(4) A Judge who was holding office as such immediately before the commencement of this Order may draw leave salary in foreign exchange in respect of any period of leave spent outside Pakistan as if he were a Federal Government servant recruited prior to the 17th May, 1958.

8. *Extraordinary leave.*—(1) Leave in excess of any leave admissible under the foregoing provisions of this Order may be granted to a Judge for a period not exceeding six months and not more than once during the whole period of his service.

(2) No leave under sub-paragraph (1) shall be granted to a Judge so as to terminate with his retirement nor after he has tendered his resignation.

(3) No leave salary shall be payable to a Judge in respect of the period of leave granted under sub-paragraph (1).

9. *Combining leave with vacation.*—A Judge may be permitted to combine vacation with leave of any kind if the leave is either at the commencement or at the end of vacation but not at both :

Provided that no such permission shall be granted to a Judge if it becomes necessary thereby to appoint an acting Judge. " ;

(f) in paragraph 10,—

(i) the words " or allowance " shall be omitted ; and

(ii) for the words " such leave as is " the word " leave " shall be substituted ; and

(g) after paragraph 11, the following new paragraph shall be inserted, namely :—

"11A. *Special disability leave.*—Special disability leave may be granted to a Judge when he is disabled by injury intentionally inflicted or caused in, or in consequence of, the due performance of his official duties or in consequence of his official position and the provisions of Fundamental Rule 83 shall, so far as may be, apply to a Judge as they apply to a Government servant under the rule-making power of the President. ".

FAZAL ELAHI CHAUDHRY,
President.

Countersigned
ZULFIKAR ALI BHUTTO,
Prime Minister.

ZIAUL HAQ CHANA,
Secretary.

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PART I

Acts, Ordinances, President's Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 8th October, 1976

No. F. 24 (2)|76-Pub.—The following Order made by the President on the 6th October, 1976 is hereby published for general information :—

PRESIDENT'S ORDER No. 4 OF 1976

In exercise of the powers conferred by clause (3) of Article 168 of the Constitution of the Islamic Republic of Pakistan, the President is pleased to make the following Order, namely :—

1. **Short title and commencement.**—(1) This Order may be called the Pakistan (Audit and Accounts) (Amendment) Order, 1976.

(2) It shall come into force at once.

2. **Amendment of Article 4, P. O. 21 of 1973.**—In the Pakistan (Audit and Accounts) Order, 1973 (President's Order No. 21 of 1973), hereinafter referred to as the said Order, in Article 4, in clause (1), for the word "three" the word "four" shall be substituted.

3. **Amendment of Article 6, P. O. No. 21 of 1973.**—In the said Order, in Article 6, after clause (1), the following new clause shall be inserted, namely :—

> "(1A) A person to whom leave is granted under clause (1) shall, for the purpose only of the appointment of a successor, be deemed to have retired from service on the day on which the leave commences."

FAZAL ELAHI CHAUDHRY,
President.

Countersigned.
ZULFIKAR ALI BHUTTO,
Prime Minister.

ABDUL HAYEE KURESHI,
Secretary.

Price : Ps. 9

[3398 Ex. Gaz.]

CORRIGENDA

[*to the* Gazette of Pakistan, Extraordinary, *Part I, dated the 15th September, 1976 containing Ordinance No. XXXII of 1976.*]

Page 516 : In line 15, *for* " approched " *read* " approached ".

" 518 : In the third line from the bottom, *for* " Creck " *read* " Creek "

" 519 : In line 26, *for* " licence " *read* " licencee ".

" " : In the second line from the bottom, *for* " rigths " *read* " rights ".

" 521 : In line 9 from the bottom, *for* " day " *read* " day, ".

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PART I

Acts, Ordinances, President's Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 12th October, 1976

No. F. 24 (2)|76-Pub.—The following Order made by the President on the 7th October, 1976, is hereby published for general information :—

PRESIDENT'S ORDER No. 5 OF 1976

AN

ORDER

to repeal the Preparation of Electoral Rolls (Federally Administered Tribal Areas) (Amendment) Order, 1976 (P. O. No. 3 of 1976).

WHEREAS it is expedient to repeal the Preparation of Electoral Rolls (Federally Administered Tribal Areas) (Amendment) Order, 1976 (P. O. No. 3 of 1976) ;

NOW, THEREFORE, in exercise of the powers conferred by clause (6) of Article 51 of the Constitution, the President is pleased to make the following Order :—

1. **Short title and commencement.**—(1) This Order may be called the Preparation of Electoral Rolls (Federally Administered Tribal Areas) (Amendment) (Repeal) Order, 1976.

(2) It shall come into force at once.

Price : Ps. 9

[3430 Ex. Gaz.]

2. **Repeal.**—The Preparation of Electoral Rolls (Federally Administered Tribal Areas) (Amendment) Order, 1976 (P. O. No. 3 of 1976), is hereby repealed and shall be deemed never to have been made and the Preparation of Electoral Rolls (Federally Administered Tribal Areas) Order, 1975 (P. O. No. 1 of 1975), shall have, and shall be deemed always to have had, effect as if it had never been amended by the said Order.

FAZAL ELAHI CHAUDHRY,
President.

Countersigned,

ZULFIKAR ALI BHUTTO,
Prime Minister.

ABDUL HAYEE KURESHI,
Secretary.

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ISLAMABAD, MONDAY, NOVEMBER 29, 1976

PART I

Acts, Ordinances, President's Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 29th November, 1976.

No. F. 24 (2)|76-Pub.—The following Order made by the president on the 25th November, 1976 is hereby published for general information :—

PRESIDENT'S ORDER No. 6 OF 1976

WHEREAS, by virtue of clause (2) of Article 192 of the Constitution, the High Court of Sind and Baluchistan shall cease to function as a common High Court for the Provinces of Baluchistan and Sind ;

AND WHEREAS clause (3) of the aforesaid Article provides that the President shall, by Order, establish a High Court for each of the aforesaid Provinces and confers on the President the power to make provisions for the matters specified therein ;

NOW, THEREFORE, in exercise of the powers aforesaid, the President is pleased to make and promulgate the following Order :—

1. **Short title and commencement.**—(1) This Order may be called the Baluchistan and Sind (High Courts) Order, 1976.

(2) It shall come into force at once.

2. **Definitions.**—In this Order, unless there is anything repugnant in the subject or context,—

(a) " circuit court " means any one or more Judges of a new High Court nominated by the Chief Justice of that Court sitting or holding Court

Price : Ps. 25

[3874 Ex. Gaz.]

at a place within the territories for which such High Court is established, other than its principal seat; and

(b) "new High Court" means a High Court established by this Order;

(c) reference herein to an order made by any High Court or a Judge shall be construed as including a reference to any sentence, judgement or decree passed or made by that High Court or Judge.

3. **Establishment of High Courts for Baluchistan and Sind.**—As from the first day of December, 1976, hereinafter referred to as the appointed day, there shall be established the following new High Courts, namely:—

(a) a High Court for the Province of Baluchistan, to be called the High Court of Baluchistan, with its principal seat at Quetta; and

(b) a High Court for the Province of Sind, to be called the High Court of Sind, with its principal seat at Karachi.

4. **Jurisdication of new High Courts and transfer of cases.**—(1) Each new High Court shall have such original, appellate and other jurisdiction and such powers and authority in respect of the territories of the Province for which it is established as the High Court of Sind and Baluchistan, immediately before the appointed day, had in respect of the territories in relation to which it exercised appellate jurisdiction.

(2) Each new High Court shall have exclusive jurisdiction as such in respect of all cases in which the court of origin lies within the territories of the Province for which such High Court is established, and every such case pending in the High Court of Sind and Baluchistan immediately before the appointed day shall stand transferred to the High Court first-mentioned.

(3) In respect of cases which are matters of original jurisdiction in a High Court, the jurisdiction shall be that of the High Court of the Province in which the cause of action in whole or in part has arisen, or the whole or any part of the property or other subject-matter involved in the case is situated, or the respondent resides or works for gain, and every such case pending in the High Court of Sind and Baluchistan immediately before the appointed day shall stand transferred to the High Court first-mentioned.

(4) In respect of petitions which have been brought under Article 199 of the Constitution, the jurisdiction shall be that of the High Court of the Province in which—

(a) the action in question has been threatened or omitted to be taken, or

(b) the act or proceeding impugned has actually been done or taken, or

(c) a person is actually held in custody, or

(d) the respondent is actually holding a public office, or

(e) enforcement of any of the Fundamental Rights conferred by Chapter I of Part II of the Constitution is sought,

and all such cases pending in the High Court of Sind and Baluchistan immediately before the appointed day shall stand transferred to the High Court first-mentioned.

(5) Any reference in this Article to a High Court shall be construed as including a reference to a Judge or division thereof; and for the purpose of this Article proceedings shall be deemed to be pending in a particular court until that court has disposed of all issues between the parties, including any issues with respect to the taxation of the costs of the proceedings.

5. **Appointment of Judges.**—(1) The persons named in Schedule shall, as from the appointed day, stand appointed as the judges of a new High Court as shown in that Schedule:

Provided that an Additional Judge shall, on such appointment, hold office until the expiry of the term of his appointment unless he is appointed as a permanent Judge in the meantime.

(2) A person appointed under clause (1) shall, before entering upon his office, make oath in the form set out in the Third Schedule to the Constitution.

(3) Nothing in clause (1) shall be construed as derogating from the power of the President to appoint one or more Additional Judges to any of the new High Courts.

6. **Seal of the High Courts.**—Each new High Court shall have a seal bearing a device and impression of a crescent moon with horns pointing upwards surmounted by a star, with an exergue or label surrounding the same with an inscription indicating that it is the seal of that High Court, and the said seal shall be delivered to and kept in the custody of the Chief Justice of that High Court, and, in case of a vacancy in the office of the Chief Justice, the seal shall be delivered to and kept in the custody of the Judge appointed to act as the Chief Justice, and whensoever the office of the Chief Justice or of the Judge to whom the custody of the seal is committed is vacant then the High Court shall be and is hereby authorised and empowered to demand, seize and take the said seal from any person or persons whomsoever by any means whatsoever.

7. **Form of writs, etc.**—The law in force immediately before the appointed day with respect to the form of writs and other processes used, issued or awarded by the High Court of Sind and Baluchistan shall, with necessary modifications, apply with respect to the form of writs and other processes used, issued or warded by either of the new High Courts.

8. **Powers of Chief Justice and other Judges.**—The law in force immediately before the appointed day relating to the powers of the Chief Justice and of single Judges and divisional courts of the High Court of Sind and Baluchistan, and with respect to all matters ancillary to the exercise of those powers, shall, with the necessary modification, apply in relation to each of the new High Courts.

9. **Enforcement of orders, etc., of the High Court of Sind and Baluchistan.**—(1) Subject to the provisions of clause (2), any order made by the High Court of Sind and Baluchistan before the appointed day shall as from that day and for all purposes be as effective as if duly made by the new High Court of proper jurisdiction in the matter.

(2) Where any such order as is mentioned in clause (1) has, whether before or after the appointed day, been confirmed, varied or reversed on appeal or review, effect shall be given to the decision on appeal or review as if the order appealed from or reviewed was an order of the new High Court having proper jurisdiction in the matter.

(3) Any reference in this Article to the High Court of Sind and Baluchistan shall be construed as including a reference to a Judge or division thereof.

10. **Power to transfer, cases.**—On the application of any of the parties, and after giving notice to the parties and hearing such of them as desire to be heard, or of its own motion without such notice, the Supreme Court may at any stage transfer for disposal any proceeding pending before a new High Court to the other new High Court.

SCHEDULE

[Article 5 (1)]

1. *The High Court of Baluchistan:*
   - (a) Mr Justice Mir Khuda Baksh Marri.
   - (b) Mr Justice M. A. Rashid, Additional Judge.
   - (c) Mr Justice Zakaullah Lodhi, Additional Judge.

2. *The High Court of Sind:*
   - (a) Mr Justice Abdul Kadir Shaikh.
   - (b) Mr Justice Muhammad Haleem.
   - (c) Mr Justice Agha Ali Hyder.
   - (d) Mr Justice Abdul Hayee Kureshi.
   - (e) Mr Justice Fakhruddin G. Ebrahim.
   - (f) Mr Justice Dr Ibrahim Mahmud.
   - (g) Mr Justice Z. A. Chana.
   - (h) Mr Justice Abdul Hafeez Memon.
   - (i) Mr Justice Mushtak Ali Kazi.
   - (j) Mr Justice Jamaluddin H. Ahmad.
   - (k) Mr Justice Zafar Husain Mirza, Additional Judge.
   - (l) Mr Justice Naimuddin, Additional Judge.

FAZAL ELAHI CHAUDHRY,
President.

Countersigned.

ZULFIKAR ALI BHUTTO,
Prime Minister.

C. A. RAHMAN,
Additional Secretary.

CORRIGENDA

[*to the Gazette of Pakistan, Extraordinary, Part I, dated the 25th October, 1976, containing Ordinance No. XLI of* 1976]

Page 583 : In line 9 from the bottom, *for* " son daughter " *read* " son/daughter ".

: In the third line from the bottom, *for* " tome " *read* " to me ".

584 : In the second line *for* " he she " *read* " he/she ".

: In line 8, *for* " WALD BINT " *read* " WALD/BINT ".

: In line 9, *for* " karta karti ", " ka ki " and " suche " *read* " karta/karti ", " ka/ki " and " sache ", respectively.

: In line 10, *for* " rahunga rahungi " and " men " *read* " rahunga/rahungi " and " me ", respectively.

: In line 11, *for* " ser anjam " and " doonga doongi " *read* " sar anjam " and " doonga/doongi", respectively.

: In line 12, *for* " jaonga jaongi " *read* " jaonga/jaongi ".

: In line 13, *for* " karunga karungi, " and " men " *read* " karunga/karungi, " and me ", respectively.

: In line 17, *for* " Mr Mrs Miss " and " officer member " *read* " Mr/Mrs/Miss " and " officer /member ", respectively.

: In line 19, *for* " officer a member " *read* " officer/ a member".

: In line 22 and in the box cited below, *for* " Officer Member " *read* " Officer/Member ".

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CORRIGENDA

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The Gazette of Pakistan

EXTRAORDINARY
PUBLISHED BY AUTHORITY

ISLAMABAD, SATURDAY, APRIL 10, 1976

PART I

Acts, Ordinances, President's Orders and Regulations

GOVERNMENT OF PAKISTAN

STATES AND FRONTIER REGIONS DIVISION

Islamabad, the 10th April, 1976

No. F. 1 (10)-Sec. III|74.—The following Regulation made by the President on the 25th March, 1976, is hereby published for general information :—

REGULATION No. I OF 1976

A

REGULATION

further to amend the Dir and Swat (Devolution and Distribution of Property) Regulation, 1972, and the Dir and Swat (Settlement of Disputes of Immovable Property) Regulation, 1972.

WHEREAS it is expedient further to amend the Dir and Swat (Devolution and Distribution of Property) Regulation, 1972, and the Dir and Swat (Settlement of Disputes of Immovable Property) Regulation, 1972, for the purposes hereinafter appearing ;

AND WHEREAS the Proclamation of Emergency referred to in Article 280 of the Constitution of the Islamic Republic of Pakistan, hereinafter referred to as the Constitution, is in force ;

NOW, THEREFORE, in exercise of the powers conferred by clause (4) of Article 247 of the Constitution, the President is pleased to make the following Regulation :—

1. **Short title and commencement.**—(1) This Regulation may be called the Dir and Swat (Devolution and Distribution of Property and Settlement of Disputes of Immovable Property) (Amendment) Regulation, 1976.

(2) It shall come into force at once.

Price : Ps. 9

[1525 Ex. Gaz.]

2. **Amendment of the Dir and Swat (Devolution and Distribution of Property) Regulation, 1972.**—In the Dir and Swat (Devolution and Distribution of Property) Regulation, 1972, in paragraph 6, in the third proviso, in clause (a), for the figures, letters, words and comma " 31st day of March, 1976 " the figures, letters, words and comma "30th day of September, 1976 " shall be substituted.

3. **Amendment of the Dir and Swat (Settlement of Disputes of Immovable Property Regulation, 1972.**—In the Dir and Swat (Settlement of Disputes of Immovable Property) Regulation, 1972, in paragraph 5B, in sub-paragraph (2), in clause (a), for the figures, letters, words and comma " 31st day of March, 1976 " the figures, letters, words and comma " 30th day of September, 1976 " shall be substituted.

FAZAL ELAHI CHAUDHRY,
President.

Countersigned

ZULFIKAR ALI BHUTTO,
Prime Minister.

MASRUR HASAN KHAN,
Secretary.

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ISLAMABAD, WEDNESDAY, SEPTEMBER 1, 1976

PART I

Acts, Ordinances, President's Orders and Regulations

GOVERNMENT OF PAKISTAN

STATES AND FRONTIER REGIONS DIVISION

Islamabad, the 1st September, 1976

No. 1(10)-Sec. III|74.—The following Regulation made by the President on the 26th August, 1976 is hereby published for general information.

NO. II OF 1976

A

REGULATION

further to amend the Settlement of Disputes of Immovable Property (Chitral) Regulation, 1974

WHEREAS it is expedient further to amend the Settlement of Disputes of Immovable Property (Chitral) Regulation, 1974 (III of 1974), for the purpose hereinafter appearing;

AND WHEREAS the Proclamation of Emergency referred to in Article 280 of the Constitution of the Islamic Republic of Pakistan, hereinafter referred to as the Constitution, is in force;

NOW, THEREFORE, in exercise of the powers conferred by clause (4) of Article 247 of the Constitution, the President is pleased to make the following Regulation :—

1. **Short title and commencement.**—(1) This Regulation may be called the Settlement of Disputes of Immovable Property (Chitral) (Amendment) Regulation, 1976.

Price : Ps. 9

(2) It shall come into force at once and shall be deemed to have taken effect on the twenty-fifth day of November, 1974.

2. **Amendment of section 3 of the Settlement of Disputes of Immovable property (Chitral) Regulation, 1974.**—In the Settlement of Disputes of Immovable Property (Chitral) Regulation, 1974 (III of 1974), in section 3, in clause (2),—

(a) in paragraph (a), after the word "report" at the end, the words "including a dispute in respect of which the Commission had withheld its findings because of a direction issued by the Provincial Government" shall be added ; and

(b) after paragraph (d), the following explanation shall be added, namely :—

"*Explanation.*—For the purposes of this clause, '*ex*-Mehtar' includes all persons who have been Mehtars of the former State of Chitral after the year 1930 and their descendants."

Countersigned.

FAZAL ELAHI CHAUDHRY,
President.

ZULFIKAR ALI BHUTTO,
Prime Minister.

AMIRZADA KHAN,
Additional Secretary.

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PART I

Acts, Ordinances, President's Orders and Regulations

GOVERNMENT OF PAKISTAN

STATES AND FRONTIER REGIONS DIVISION

Islamabad, the 9th October, 1976

No. 1 (10)-Sec. III|74.—The following Regulation made by the President on the 29th September, 1976 is hereby published for general information.

REGULATION No. III OF 1976

A

REGULATION

further to amend the Dir and Swat (Devolution and Distribution of Property) Regulation, 1972, and the Dir and Swat (Settlement of Disputes of Immovable Property) Regulation, 1972.

WHEREAS it is expedient further to amend the Dir and Swat (Devolution and Distribution of Property) Regulation, 1972, and the Dir and Swat (Settlement of Disputes of Immovable Property) Regulation, 1972, for the purposes hereinafter appearing ;

AND WHEREAS, the Proclamation of Emergency referred to in Article 280 of the Constitution of the Islamic Republic of Pakistan, hereinafter referred to as the Constitution, is in force ;

NOW, THEREFORE, in exercise of the powers conferred by clause (4) of Article 247 of the Constitution, the President is pleased to make the following Regulation :—

1. **Short title and commencement.**—(1) This Regulation may be called the Dir and Swat (Devolution and Distribution of Property and Settlement of Disputes of Immovable Property) (Second Amendment) Regulation, 1976.

(2) It shall come into force at once.

Price : Rs. 9

[3432 Ex. Gaz.]

2. **Amendment of the Dir and Swat (Devolution and Distribution of Property) Regulation, 1972.**—In the Dir and Swat (Devolution and Distribution of Property) Regulation, 1972, in paragraph 6, in the third proviso, in clause (a), for the figures, letters, words and comma " 30th day of September, 1976 " the figures, letters, words and comma " 30th day of November, 1976 " shall be substituted.

3. **Amendment of the Dir and Swat (Settlement of Disputes of Immovable Property) Regulation, 1972.**—In the Dir and Swat (Settlement of Disputes of Immovable Property) Regulation, 1972, in paragraph 5B, in sub-paragraph (2), in clause (a), for the figures, letters, words and comma " 30th day of September, 1976 " the figures, letters, words and comma " 30th day of November, 1976 " shall be substituted.

FAZAL ELAHI CHAUDHRY,
President.

Countersigned,

ZULFIKAR ALI BHUTTO,
Prime Minister.

AMIRZADA KHAN,
Additional Secretary.

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